



Costs Decision

Site visit made 7 February 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2023

Costs application in relation to Appeal Ref: APP/Z4310/W/22/3307738 Land adjacent to 6 Woodland Road, Liverpool L4 8SS

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Dennis Lyons for a full award of costs against Liverpool City Council.
 - The appeal was against the refusal of planning permission for the erection of a two-storey, four bedroom House in Multiple Occupation (C4) with associated landscaping.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal process. The type of behaviour that can lead to a costs award includes substantive matters such as unreasonably refusing a planning application and procedural matters relating to the appeal process.
3. The applicant has raised concerns that the Council took 14 months to issue a decision on the planning application subject of the appeal. Whilst this is beyond the statutory period for determination, the Council has stated that there was dialogue with the applicant's agent during the planning application stage in an effort to work towards a positive outcome.
4. An Appeal Statement was not however submitted by the Council, but the Council's Delegated Case report sets out their reasoning on both reasons for refusal, providing a justification for its decision. Although the Council has referenced the Supplementary Planning Guidance Note 10 – New Residential Development (SPG), which was prepared to supplement a development plan policy that is no longer extant, the SPG is still capable of being a material consideration for reasons set out in the accompanying appeal decision. The Council, in their assessment and in each of the reasons for refusal have referenced the relevant development plan policy and I do not consider the Council has acted unreasonably in this regard.
5. The applicant has stated that the Council failed to have regard to the more intensive uses of the appeal site previously as a Chapel and a Judo Club and nor did they have regard to a previous permission for a house on the appeal site. The appeal site is however a vacant site and previous building(s) have long been demolished. The applicant states that the referenced planning permission for the house was not implemented and has lapsed. As such, given that neither the historic uses nor the previous permission represent valid

fallback positions, I do not consider the Council's absence of considering them to be unreasonable.

6. I accept that any redevelopment of the vacant site would introduce some level of comings and goings, but any planning application that comes forward would entail an assessment of whether such a development was acceptable. The consideration of planning applications often involve matters of judgement, as the applicant acknowledges, particularly when assessing the effects on the living conditions of neighbouring occupants. The Council have undertaken an assessment in their Delegated Case report, and although I disagree with the Council, an award of costs does not necessarily follow the outcome of the appeal.
7. In relation to the LPA's questionnaire, although it was submitted by the Council on time, there was a delay in sending a copy of this to the applicant. The Council has not provided a clear response on why there was this delay. The appeal process relies upon adherence to deadlines and the timely submission of documentation. The applicant has not however specified what effect this delay has had. Accordingly, whilst the delay by the Council in this regard is regrettable, it has not been demonstrated that it has caused the applicant to incur unnecessary or wasted expense.

Conclusion

8. With the above in mind, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is therefore not justified in this instance.

F Rafiq

INSPECTOR