



Costs Decision

Site visit made on 7 February 2023

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2023

Costs application in relation to Appeal Ref: APP/B1605/W/22/3308204 The Hayloft, The Reddings, Cheltenham, Gloucestershire GL51 6RL

- 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 Guild Residential Ltd for a full award of costs against Cheltenham Borough Council.
 - The application Ref 22/00749/FUL, dated 14 April 2022, was refused by notice dated 25 August 2022.
 - The appeal was against a refusal to grant planning permission for the proposed development described as "conversion of the existing dwellinghouse into 9 self-contained apartments, and associated works."
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Unreasonable behaviour can relate to procedural matters (i.e. the appeal process) or substantive matters (i.e. issues related to the planning merits of the appeal).
4. Essentially the applicant is seeking an award of costs due to the Council's alleged unreasonable behaviour. The applicant considers the reason for refusal to be unreasonable and claims that the reasons were vague and generalised assertions about the proposal's impacts. They also claim that the Council failed to produce evidence to substantiate the reason for refusal. The applicant feels this caused them unnecessary and/or wasted expense.
5. The application Ref: 22/00749/FUL was decided at Planning Committee. In terms of the reason for refusal, the Planning Committee considered that the proposal would generate increased activity and vehicular movements that would lead to unacceptable noise and disturbance to residential neighbouring properties, which formed their first reason for refusal on the decision notice.
6. Whilst no objections were raised by the Council's Environmental Protection Team or Highway Safety Team with regard to noise and disturbance and highway safety, objections had been received from local residents. After considering the objections received from local residents, the Planning Committee decided to refuse the proposal. This was due to their concerns that the proposal would have a detrimental impact on the local area.

7. The Planning Committee exercised their planning judgement as decision maker and were entitled to come to the conclusions they did based on the evidence before them, the adopted development plan for the area and national planning policy. Therefore, I find the Council to have acted reasonably in this instance. As the planning application attracted public attention, it was also reasonable for the Council to determine the application by their Planning Committee instead of the delegated officer route.
8. In the Council's decision notice and statement of case, the Council gave reasons as to why it was concerned that the proposal, by virtue of its proposed use would cause harm to living conditions of neighbouring occupants from noise and disturbance from increased comings and goings, and vehicular movements. The above matters involve a degree of judgement and, while, on balance, I do not agree with the Council's decision, sufficiently robust evidence was submitted to show that it did not apply its judgement in an unreasonable manner, in accordance with the advice in the PPG.
9. Although I understand the applicant's frustration at the delays, I have seen no sufficiently compelling evidence that the Council behaved unreasonably. The Council refused the application and has provided sufficient details as to why it did not grant permission. It is not therefore the case that the appeal could have been avoided and therefore the applicant has not incurred unnecessary and/or wasted expense.

Conclusion

10. 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 not therefore justified.

Helen Smith

INSPECTOR