The Planning Inspectorate

Costs Decisions

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2023

Costs application in relation to Appeal Ref: APP/J2210/X/22/3294079
Land at Chapter Arms, New Town Street, Chartham Hatch, CT4 7LT

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr A Noel (Chapter Enterprises Ltd) for a full award of costs against Canterbury City Council.
- The appeal was against a refusal to issue a certificate of lawful use or development regarding the use of former public house as a dwelling house and residential curtilage.

Costs application in relation to Appeal Ref: APP/J2210/W/21/3289190
Land at Chapter Arms, New Town Street, Chartham Hatch, CT4 7LT

- 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 A Noel (Chapter Enterprises Ltd) for a full award of costs against Canterbury City Council.
- The appeal was against a refusal to grant planning permission for a change of use from a public house to a dwelling house.

DECISIONS

Appeal Ref: APP/J2210/X/22/3294079

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

Appeal Ref: APP/J2210/W/21/3289190

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

REASONS

LDC APPEAL

3. 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.

4. Costs cannot be claimed for the period during the determination of the application and costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding. Nevertheless, behaviour and actions at the time of the application can be taken into account. In this respect the Council alerted the appellant to concerns about the evidence very shortly before a decision was made, but the Council did not bring forward evidence of its own at this stage in the process.

5. The main point made in the costs application is that the Council misinterpreted and failed to take account of the evidence provided. However, for the reasons set out in the appeal decision, I essentially agreed with the Council that the appellant's evidence was not sufficiently precise and unambiguous to demonstrate on the balance of probability the lawfulness of the existing use as applied for. My conclusion on the LDC appeal is that the decision of the Council is well-founded.

6. The decision-making process of the Council on a second LDC application is outside the scope of this costs application.

7. I find that unreasonable behaviour, resulting in unnecessary or wasted expense as described in the Planning Practice Guidance has not been demonstrated.

PLANNING APPEAL

8. 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.

9. I have decided to dismiss the appeal and not to grant planning permission. It follows that the Council's decision to refuse the planning application was not unreasonable. The development was not prevented or delayed unnecessarily, nor did the Council's decision require an appeal to be made unnecessarily.

10. The Council in its appeal statement explained adequately why it was not persuaded by the appellant's evidence. The main issues in dispute are not complex and the Council's assessment does not require the additional support of expert analysis.

11. I find that unreasonable behaviour, resulting unnecessary or wasted expense as described in the Planning Practice Guidance has not been demonstrated.

Diane Lewis

Inspector