

Costs Decision

Site visit made on 17 October 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Costs application in relation to Appeal Ref: APP/N4720/W/23/3324538

1 Dawlish Terrace, Osmondthorpe, Leeds LS9 9HB

- 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 Peter Bradley for a full award of costs against Leeds City Council.
 - The appeal was against the refusal of planning permission for change of use from dwelling house (C3) to house in multiple occupation (C4).
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. Paragraph 051¹ of the PPG states that awards against local planning authorities may be either procedural in regard to behaviour in relation to completing the appeal process or substantive, which relates to the planning merits of the appeal.
3. The applicant argues that the Council relied on inaccurate assertions about the development which were unsupported by objective evidence, did not take into account relevant information provided with the application that was different to a previously refused application², no visit was made inside the property which would have enabled the Council officer to see the position of the internal staircase, and that these actions have prevented or delayed development which should clearly be permitted having regard to the development plan, national policy and material considerations. This, it is argued, amounts to unreasonable behaviour on the part of the Council.
4. The applicant disagrees with the Council's assessment of natural light penetration into the communal basement room and outlook from the room, but in the absence of any technical evidence such as a daylight and sunlight assessment, the balance is based on planning judgement and is not necessarily evidence of inadequate analysis. Despite my finding to the contrary, the Council is entitled to take the view that the basement room would not receive adequate natural light and occupants would have a poor outlook, and in doing so it has not acted unreasonably.

¹ Reference ID: 16-051-20140306

² LPA Ref: 22/07655/FU

5. There is no indication before me that the Council ignored additional information provided with the application, particularly as the Council's Officer Report acknowledges the application is a re-submission of an earlier refused application and that some concerns had been addressed.
6. While the Council have no objection to the principle of the HMO, this does not relieve them of assessing the development against all other material considerations, including the living conditions of occupants of the property. The first part of the first reason for refusal in the decision notice sets out the Council's concern regarding light penetration into the basement room. It also clearly states the policies of the Leeds Core Strategy (Review 2019) and the Leeds Unitary Development Plan (2006) that the Council considered the proposal would conflict with.
7. This reason has been adequately substantiated by the Council in its Officer Report and Appeal Statement, which demonstrates how they consider the proposal does not provide acceptable living conditions for occupants with regard to light and outlook.
8. In terms of the second part of the Council's first reason for refusal relating to the ground floor bedroom being the main thoroughfare for the building, it appears that no internal inspection of the property was undertaken by the Council Officer. If they had done so, it would have been apparent that the internal staircase leads from the basement to every bedroom and it is not necessary for occupants of the first and second floor bedrooms to pass through the ground floor bedroom to access the property or the communal basement room. Neither is it necessary for the occupant of the ground floor room to go outside to access the communal room.
9. However, it was evident from my site visit that the submitted floor plans are inaccurate. Amongst many other anomalies, including doors in the wrong locations and differences in room sizes, the inaccurately drawn staircase is somewhat confusing and does not clearly indicate accessibility between rooms. Had the applicant submitted accurate plans with their initial application, this matter would not have formed part of the Council's reason for refusal. While it is unfortunate that an internal inspection of the property did not appear to have been carried out by the Council, on the basis of an assessment of the submitted plans, it has not acted unreasonably.
10. The costs application also raises a concern that the Council has put the applicant to unnecessary time and expense in addressing the second reason for refusal, which was withdrawn following submission of the appeal.
11. This argument is without merit since the applicant's Appeal Statement confirms that the issues raised in the first reason for refusal are also covered in the second reason for refusal. The applicant has not had to address any further matters in this regard and the appeal was still unavoidable.

Conclusion

12. As set out above, I conclude that unreasonable behaviour leading to unnecessary or wasted expense at appeal, as described in the PPG, has not been demonstrated. The application for an award of costs is refused.

A Veevers INSPECTOR