



Costs Decision

Site visit made on 7 November 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2023

Costs application in relation to Appeal Ref: APP/N4720/W/23/3327224 270 Dewsbury Road, Hunslet, Leeds LS11 6JQ

- 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 Leeds City Council for a full award of costs against Mr Habib.
 - The appeal was against the refusal of planning permission for use of building as basement flat and ground floor offices and retention of upper two floors as single dwelling.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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. The PPG states that an appellant is at risk of an award of costs being made against them if the appeal had no reasonable prospect of succeeding or information is provided that is shown to be manifestly inaccurate or untrue.
3. The applicant is seeking a full award of costs and contends that the appellant acted unreasonably by failing to substantiate their case, relying on vague unsupported and generalised statements. It is alleged that information provided in the appellant's submissions insufficiently addressed the reasons for the refusal of the application and failed to engage with the substance or detail of their concerns.
4. The appellant has responded setting out that appropriate information was submitted, and comprised not just the appeal statement, but included the plans and statement submitted at the application stage. It is contended that their submissions provide the necessary information to respond to the reasons for refusal on the decision notice.
5. However, as it can be seen in my decision, I have agreed with the applicant that on the basis of the information submitted, it is not sufficiently clear that the standard of accommodation required by the development plan has been provided at the appeal site. I acknowledge that the basement plans are annotated to indicate that the necessary ceiling to roof height is achieved, however no additional detailed information has been provided to clearly demonstrate the room height. Some limited information was provided to suggest that the current tenant is content with the standard of accommodation, nonetheless, I observed the basement flat to be cramped and claustrophobic, and in the absence of any robust evidence, it has not been clearly articulated

by the appellant that the flat meets the required standards.

6. Furthermore, in relation to the second reason for refusal the appellant did not provide any further evidence to demonstrate that the upper flat provides appropriate accommodation, despite the applicant clearly setting out what information was required. Overall, the appellant has not engaged with the applicant's clearly articulated reasons for refusal or the detail set out in the officer report, relying instead on vague and generalised statements.
7. The applicant has drawn my attention to another planning application submitted by the appellant at the appeal site which would result in the loss of residential use at basement level. It is suggested that this undermines the appellant's case regarding the need to protect the human rights of the current tenant of the basement flat. However, it is reasonable that the appellant might seek to regularise the situation at the appeal site in the event that the appeal is dismissed. As such, I do not find that this shows the appellant's submissions to be manifestly inaccurate or untrue in this regard.
8. While there is no inherent issue with the appellant's appeal statement being brief, even taking into account the original planning application documents, very limited information or evidence was submitted for consideration. Moreover, in largely relying upon the information submitted with the application, which the Council had found to be insufficient to demonstrate that the proposed development was policy compliant, it follows that the appeal had limited prospect of reasonably succeeding.

Conclusion

9. For the reasons given above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Habib shall pay to Leeds City Council, the costs of the appeal proceedings described in the heading of this decision. The applicant is now invited to submit to Kirklees Metropolitan Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

F Harrison

INSPECTOR