



Costs Decision

Site visit made on 22 November 2023

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th January 2024

Costs application in relation to Appeal Ref: APP/T3725/W/23/3320938 Third floor flat, 28 Clarendon Square, Leamington Spa CV32 5QX

- 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 David Ramsey for a full award of costs against Warwick District Council.
 - The appeal was against the refusal of the Council to grant subject to conditions planning permission for change of use from a 3 bed flat (Use Class C3) to a 4 bed House in Multiple Occupation (HMO) (Use Class C4) (part retrospective application).
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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 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. That the Council's planning committee refused planning permission against the recommendation of its officers does not in itself justify an award of costs. Having regard to the evidence provided, including the minutes of the planning committee meeting, I consider that the Council gave clear reasons as to why, in their view, the proposal did not meet the requirements of criterion d) of Policy H6 of the Warwick District Council Local Plan (WDLP).
4. In the Council's view the proposal would result in a continuous frontage of three or more HMO properties, due to the existence of HMOs within the ground floor of two adjacent properties. It is appreciated however that the appeal proposal does not relate to the ground floor of the property and rather relates to the upper floors of the property only. Therefore, it would not result in a continuation of three or more HMOs along the ground floor level, despite there being an HMO in three continuous buildings in a row.
5. Policy H6 does not however define what constitutes a continuous frontage and whether or not it should apply to the whole or part of a frontage of a property. Accordingly, such consideration can be open to interpretation by the decision-maker. Therefore, I do not consider the Council applied the policy criterion in an unreasonable manner in reaching its decision, rather it applied its own interpretation, which was at variance to its officers and the applicant.

Conclusion

6. In view of the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, an award of costs is not justified against the Council.

C Billings
INSPECTOR