



Costs Decision

Site visit made on 24 January 2024

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2024

Costs application in relation to Appeal Ref: APP/E2734/W/23/3330284 12, 12A and 13 Devonshire Place, Harrogate HG1 4AA

- 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 WLW Holdings Ltd for a full award of costs against Harrogate Borough Council.
 - The appeal was against the refusal of planning permission for the conversion of existing ground floor retail and demolition of outbuildings to form 3 apartments, erection of two storey extension, change of use of basement from commercial storage to residential storage and tree works.
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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. The crux of the applicant's case is that the Council has behaved unreasonably by misunderstanding the number of new apartments proposed, misapplying policy and determining similar cases inconsistently. These, it is put to me, has meant the Council's assessment of harm and balance of considerations in its Officer Report were incorrect. Moreover, it is put to me that the Council has not substantiated its reason for refusal and ultimately prevented and delayed development that should have been permitted. The Council has defended itself in relation to these matters.
4. The applicant provided an appeal statement setting out its case and concerns regarding the Council's assessment including, amongst other things, in relation to an error in the Officer's heritage balance where a net gain of one dwelling was referred to instead of three. The appeal statement also referred to the presence of other decisions for rear extensions that had been made by the Council near the appeal site, which the appellant considered to be directly comparable to the appeal proposals. Other elements included a dispute over the relevant criteria within Policy HP2 of the Council's Local Plan and relevant paragraphs within the National Planning Policy Framework.
5. The Council had the opportunity to review its case and substantiate its position. However, it chose not to do so, and the only response was in relation to the application for an award of costs.

6. Whether the error in the number of units referred to in the Officer Report was a typographical error or a misunderstanding of the scheme, an error was made. Even so, the Council's substantive concerns at the heart of the appeal in relation to the size of the proposed extension relative to the host property were clear and specific.
7. It will be seen from my decision in dismissing the appeal, that I also found harm. Although I have not agreed with the Council's position regarding the level of harm, the weight I gave to the public benefits that would flow from the appeal scheme did not outweigh the weight that I attached to that harm. Moreover, I also found conflict with the policies of the Local Plan identified in the Council's reason for refusal.
8. The Council has not therefore refused, prevented, or delayed development that should clearly have been permitted having regard to its accordance with the development plan, national policy, and any other material considerations. In this regard, the matters raised by the applicant have not, individually, or cumulatively, led to wasted expense in the appeal process.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Mr R Walker

INSPECTOR