



Costs Decision

Site visit made on 23 January 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20.02.2024

Costs application in relation to Appeal Ref: APP/J3015/W/23/3327115 31 Humber Road, Beeston, Nottinghamshire NG9 2EJ

- 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 Jack Nijjar for a full award of costs against Broxtowe Borough Council.
 - The appeal was against the refusal of planning permission for change of use from A1 to C3/C4 HMO dwelling.
-

Decision

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

Reasons

2. 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, that the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary and wasted expense in the appeal process. Paragraph 049 of the PPG¹ provides examples of unreasonable behaviour which could result in a substantive award of costs being made against the Local Planning Authority.
3. The applicant claims that the Council has acted unreasonably by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations; failure to produce evidence to substantiate each reason for refusal; and vague, generalised, or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant's claim is based on the Officer's recommendation to approve the proposal being overturned by the Planning Committee Members and that the minutes of the committee meeting do not provide reasoned justification for the members decision.
5. The applicant has also referenced advice within the Local Government Association/ Planning Advisory Service Guide to Probity in Planning for Councillors and Officers (November 2013). The minutes which have been provided with evidence are sufficiently detailed to show that the members raised concerns relating to the effect of the proposed development on the character of the area. There is no evidence that members put pressure on officer to 'go away and sort out the planning reasons' as asserted by the

¹ Paragraph: 049 Reference ID: 16-049-20140306

appellant. Moreover, the minutes include the full reason for refusal as was agreed by members. The applicant agrees that members are not bound to follow the advice of officers.

6. The minutes do not have to fully substantiate each reason for refusal or provide objective analysis of the effects of the proposal. The minutes do not need to be verbatim, and I have no evidence that the members did not take account of the existing use, as asserted by the appellant.
7. The Council, within their statement of case, have clearly set out the reasons why the development was not acceptable and reached a conclusion that the change of use would adversely affect the character of the area and the mix of house types. The Council have clearly set out the justification for the reason for refusal and related the concerns to relevant development plan policies and the Council have, therefore, not failed to produce evidence to substantiate each reason for refusal or relied on vague, generalised, or inaccurate assertions about a proposal's impact.
8. For these reasons, although I have reached a different conclusion on the effect of the proposal, I have found that the Council had reasonable concerns about the proposed development which justified its decision. The appellant had to address those concerns in any event and therefore the appeal could not have been avoided.
9. I therefore have no substantive evidence that the Council has acted unreasonably in the appeal. As such, there can be no question that the applicant has incurred unnecessary or wasted expense.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

K Townsend

INSPECTOR