



Costs Decision

Site visit made on 3 April 2024

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2024

Costs application in relation to Appeal Ref: APP/X3405/W/23/3326888 21 Stafford Road, Cannock, Staffordshire WS11 4AF

- 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 Andrews for a full award of costs against Cannock Chase District Council.
 - The appeal was against the refusal of planning permission for development of the site to provide 17 room house of multiple occupation.
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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 expense in the appeal process. Both tests need to be satisfied before an award of costs can be made.
3. The PPG gives examples of the types of behaviour that could give rise to a substantive or procedural award of costs against a local planning authority. They are not exhaustive but include 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; and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant cites unreasonable behaviour because the Council's reason for refusal is vague and lacks reasonable justification. The decision does not reflect the planning issues identified by officers or the discussion at the planning committee meeting. The number of bedrooms was not an issue in the previous applications that went to appeal, and the proposal has fewer bedrooms to the previous schemes so how can overdevelopment be an issue this time. The Council has thereby introduced a new refusal reason. Reference to Local Plan Policy CP3, principally a design-related policy, in the refusal reason does not relate to amenity. The proposal accords with the design dimensions of the policy.
5. The Council's case is that its refusal reason states the number of rooms constitutes overdevelopment and includes relevant policies and relevant part of the Framework. The Council goes on to say that its appeal statement clarified members' concerns and lack of communal kitchen/living space and lack of a suitable front entrance. It acknowledges that Appendix B of the Design SPD

does not refer to Houses in Multiple Occupation (HMOs) but that the spirit of the guidance is that dwellings should have a good standard of residential amenity, which is further endorsed by reference to Framework paragraph 130f) which requires “high standards of amenity for existing and future users”. The applicant has failed to explain how the alleged unreasonable behaviour has led to unnecessary or wasted expense.

6. The planning application was considered at the Planning Control Committee on 11 January 2023 where members resolved to refuse planning permission contrary to the Planning Officer’s recommendation. This was based on a thorough committee report and officer advice. Members are fully entitled to disregard or disagree with the advice of their professional officers. This is not in itself unreasonable behaviour, but the Council must be able to substantiate its reasons for refusal.
7. The Minutes of the committee meeting tell me that members voted against the officer recommendation and then moved that the application be refused on the grounds of overdevelopment because of the number of proposed occupiers. I understand the applicant has formally lodged a complaint with the Council about the Minutes of the meeting and their accuracy. This is a matter between the two parties. The planning committee decided that planning permission should be refused and that was the Council’s formal decision.
8. The reason for refusal in the decision notice is complete, specific and relevant to the application. It also states the local and national policies with which the proposal would conflict. The reason for refusal has also been further substantiated in the Council’s Statement of Case, which explains how the proposal would result in an inappropriate form of development. There was sufficient information for me to determine the appeal.
9. It would appear that the Council does not have any specific planning policies or standards relating to HMOs and any minimum amounts of communal space or requirements that the building’s entrance cannot be shared with a smoking area. Whilst there would be fewer rooms than in previous applications, those previous schemes included communal areas which the appeal proposal does not. Hence there are differences with the appeal proposal, despite the overall appearance, bulk and massing of the building now being acceptable. With these differences members had legitimate concerns and exercised their planning judgment, as I have done, about the suitability of the accommodation as a whole and the resulting impact on living conditions of future occupants. This does not amount to unreasonable behaviour.
10. In the costs decision for an 18-bedroom HMO proposal on the site¹ that went in the applicant’s favour, the Inspector was considering very different reasons for refusal. The number of bedrooms was not an issue. The Council and the Inspector were considering a different internal layout, albeit for more bedrooms, but which included communal area and facilities for future occupants. All decisions fall to be determined on the particular facts of the case and the evidence before the Inspector at the time. In any event I must determine the matters in this case on the facts before me.
11. I conclude that development has not been refused based on vague, generalised or inaccurate assertions about a proposal’s impact, but the Council had

¹ Appeal ref: APP/X3405/W/20/3260212 dated 19 January 2021

legitimate concerns about the impact of the proposal on the living conditions on future occupants and exercised its planning judgment to refuse planning permission. Overall, therefore, I find the Council has not acted unreasonably.

12. As I have found the Council has not acted unreasonably, I need not concern myself as to whether wasted expenditure has occurred, as both tests need to be satisfied before an award of costs can be made.

Conclusion

13. I find that unreasonable behaviour, resulting in unnecessary or wasted expense at appeal as described in the PPG, has not been demonstrated. An award for costs is therefore not justified.

K Stephens
INSPECTOR