



Costs Decision

Site visit made on 7 May 2024

by Helen Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2024

Costs application in relation to Appeal Ref: APP/P2365/W/24/3336302 The Winsters, Skelmerdale, Lancashire, WN8 8NG

- 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 Eunoia-Living for a full award of costs against West Lancashire Borough Council.
- The appeal was against the refusal of planning permission for the change of use from Dwelling-house (Class C3) to Residential Care Home (Class C2).

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 applicant has submitted that the Council acted unreasonably in refusing planning permission when both national and local planning policy supported the grant of planning permission. There were also no other material considerations that would lead to a different conclusion. The appellant's submission refers to the National Planning Policy Framework paragraph 111 which states that planning permission should only be refused on highway grounds where there would be an unacceptable impact on highway safety or the residual cumulative impact on the road network would be severe. It is also commented that the Highway Authority made no objection.
4. The applicant's submission focusses on the way in which the Council has addressed the parking issue. In particular, the approach the Council has taken as landowner to the appellant's request to rent garage/s on The Winsters to provide dedicated parking for the appeal proposal.
5. It is argued this has resulted in additional cost to the appellant through the need to submit a further planning application, the subject of this appeal, and having to pay double Council Tax as the property remained empty while planning permission has been sought.
6. The Council considers that it has carried out its statutory function correctly, provided a clear and concise assessment of the case having regard to local and national planning policy. At the time of the determination of the planning application, the applicant had not secured the rental of a garage through the Council's Estates Department. The Planning Department has no influence on a separate Council department.

7. The PPG advises that a local planning authority may be at risk of an award of costs if they have not behaved reasonably in relation to procedural or substantive matters at the appeal.
8. In the costs application, the applicant indicates the reason for refusal relates to highway safety and refers to national planning guidance as well as the lack of objection from the Highway Authority. However, the reason for refusal is not highways related but concerns the impact of the proposal on residential amenity.
9. I understand that the applicant has tried to work positively and proactively with the Council. The Council refused to rent out garages as they were in a state of disrepair. The applicant offered to carry out the necessary repairs before renting, but this offer was rejected. I acknowledge that some coordination between different Council departments may have helped to resolve the issue. If agreement had been reached to rent a garage earlier in the process, then the application may not have been refused and the appeal may have been avoidable.
10. However, the difficulties the applicant experienced in renting out a garage are fundamentally an estates matter, over which the Planning Department has no control. This is a separate matter completely unrelated to the appeal process. There has therefore been no unreasonable behaviour as described in the Guidance.
11. At the time the Council decided the planning application, an agreement to rent a garage had not been reached and the appeal did not include a garage within the 'red edge' of the application. Whilst I have disagreed with the Council's judgment in relation to the impact of the proposal on residential amenity, the Council has substantiated their reason for refusal having regard to local and national planning policy. The Council's actions do not constitute unreasonable behaviour.

Conclusion

12. Given the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Helen Hockenhull

INSPECTOR