



Costs Decision

Site visit made on 23 May 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2024

Costs application in relation to Appeal Ref: APP/A2335/W/24/3337571 Former Co-Op Building, 3 John Street, Carnforth, Lancashire LA5 9ER

- 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 Marshaw Developments Ltd for a full award of costs against Lancaster City Council.
 - The appeal was against the refusal to grant planning permission for the change of Use of basement areas to two dwellings.
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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 appellant is seeking a full award of costs on the following grounds, that the LPA has prevented or delayed a development which should clearly be permitted, LPA's decision is based on vague, generalised and inaccurate assertions about the development's impact, which are not supported by any objective analysis and not determined this case in a consistent manner with previous very similar proposals, and has provided no explanation or justification for departing from earlier positive decisions. The appellant also alleges that the LPA failed to engage with the Appellant at all during the consideration of the application and has a thoroughly unhelpful and obstructive approach to this (and associated) application.
4. It is clear that there are some areas of dispute which relate to matters of planning judgement, including the whether the proposal would provide adequate living conditions for future occupiers. In determining this current application, the Council in its Officer Report outlined the reasons for the decision, along with the appropriate policies and Decision Notice has provided clear reasons for refusal.
5. Although I did not agree with all of their conclusions, I am satisfied that the Council gave a reasoned assessment for their decision, and it was not unreasonable for them to have refused the application exercising their planning judgement.
6. Turning to whether the Council acted in a consistent manner, having regard to the planning history of the site, which the appellant states includes similar previous applications which were approved for the residential development of

the site. It is clear that the Council were aware of the long-standing planning history of the site which is listed within the Officer Report. However, each application must be considered on its own merits and for the reasons outlined in my appeal decision the previous approvals were not directly comparable to the appeal proposal. In particular, this appeal relates to the use of the basement as self-contained accommodation, providing an addition two flats within the building.

7. Furthermore, it is also clear that the Council has consistently assessed the context of the area and referred to development plan policies in reaching their conclusions. I therefore find that the Council has not acted unreasonably by failing to approach the consideration of the proposal in a consistent manner.
8. Whilst I sympathise to a degree with the appellant in terms of the difficulties experienced in seeking to resolve unauthorised works to the appeal building through the submission of related applications¹. There is no requirement to have engaged in discussions during the course of a live application which the Council are obliged to determine within a set timescale, and I understand that no pre-application advice was sought by the appellant. Therefore, I do not find that the Council has acted unreasonably in such a way that has led to unnecessary or wasted expense as a result.
9. Finally, the appellant alleged that the decision has prevented/delayed development which should clearly be permitted. However, for the reason set out in my appeal decision I found conflict with the development plan as a whole. Therefore, the Council did not prevent a development that should clearly have been permitted.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Lancaster

INSPECTOR

¹ Planning Application Refs: 22/00393/PAC, 17/00502/CU, 07/01722/CU and 02/01398/CU