



Costs Decision

Site visit made on 4 June 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2024

Costs application in relation to Appeal Ref: APP/Z4310/W/24/3337065 118-120, Breck Road, Liverpool L4 2RD

- 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 Lee Johnston for a full award of costs against Liverpool City Council.
 - The appeal was against the refusal of planning permission for the use of upper floors as a 17 bedroom hotel (Use Class C1) ground floor to restaurant (Use Class E) and basement to bar (Sui Generis) erect single storey extensions at rear and install dormer extension to rear, to install 4no. rooflights at front with alterations to fenestration at front and rear.
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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 applicant contends that the Council have failed to have regard to an appeal decision relating to a similar case into account, have assessed the application against an incorrect designation and that unfounded assumptions have been made about the effect of the proposal.
4. There is nothing in the Council's officer report which suggests the other appeal decision was taken into account. However, the Council's concern was not a matter of principle about such a use in a District Centre, but a specific effect resulting from the scale and nature of the development. Having regard to the differences between the two proposals, particularly in terms of the scale, it is likely that there would be differences in the specific effects on living conditions. Therefore, even if they had referred to the other appeal in their report, there is no guarantee that this would have resulted in a different outcome. It is also not unreasonable for the Council to have assessed this proposal on its own merits. On this basis, I am not persuaded that the Council acted entirely unreasonably or that the appeal would not have been necessary had it been referred to. As such, there has been no wasted expense in any event.
5. Additionally, the Council noted that the scheme is within the Breck Road District Centre which is enclosed by residential streets. The Council cited Policy H7 in their decision which relates to Primary Residential Areas, which I acknowledge is not a directly relevant policy. However, the Council also concluded against other policies which were applicable to the scheme. As such, I am content that the Council made their decision in full understanding and

recognition of it being within a District Centre. I therefore do not find the reference to Policy H7 amounts to unreasonable behaviour.

6. I have found in my appeal decision that the proposal would not lead to harm to the living conditions of neighbouring occupiers, with particular regard to noise and disturbance. However, this was a matter of planning judgement. The Council has set out its reasoning for reaching a different conclusion in determining the application. While I do not agree with that conclusion, I do not consider that the Council acted unreasonably in refusing permission.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expensive, as defined in the PPG, has not been demonstrated. Therefore, the application for costs is refused.

J Smith

INSPECTOR