



Costs Decision

Site visit made on 18 June 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st July 2024

Costs application in relation to Appeal Ref: APP/D0515/W/23/3333116 Langley Lodge Rest Home, 26 Queens Road, Wisbech, PE13 2PE

- 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 Ben Mauremootoo for a full award of costs against Fenland District Council.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of a single-storey side/rear extension and formation of car parking to the front of the existing care home involving demolition of existing 2-storey building and removal of swimming pool.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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 applied for a full award of costs on the substantive grounds that the Council behaved unreasonably by delaying development, which should clearly be permitted having regard to its accordance with relevant planning policies and other material considerations and for making vague, generalised assertions regarding potential effects on amenity and highway safety, which were not supported by any objective analysis. It is also claimed that the Council behaved unreasonably in persisting in objections to a scheme which has already been granted planning permission, not determining like cases in a like manner, and failing to grant further planning permission for a recently expired permission where there has been no material change in circumstances.
4. Planning permission was granted for an almost identical scheme in 2018, which was not implemented due to the need to protect care home residents throughout the Coronavirus pandemic. The only change to the proposal is that an office window in the north side elevation and a waiting area window in the south side elevation have been replaced with doors and access steps. No changes have been made to the car parking proposals.
5. Whilst I understand that there are new members on the planning committee, there has been no material change in the submitted plans, no change to relevant policies or parking standards and no changes to the site or its surroundings that would justify the Council reaching a different decision. Had the previously approved scheme been implemented, the windows could have

been changed to doors without the need for planning permission or as non-material minor amendments.

6. Although Planning Committees are entitled to reach a different view to that of their professional advisors, such views must be substantiated. The first reason for refusal claims that the development would result in a shortfall in car parking spaces which would be detrimental to road safety. No evidence has been provided to substantiate these assertions, which are not shared by the local highway authority or planning officers. Moreover, the shortfall in parking relates to the existing situation and not to the development proposed, which would provide adequate parking to cover both the additional 6 bedrooms created by the proposed extension and some of the existing shortfall. No evidence has been provided to substantiate claims that the nearby public car park and on street parking spaces have no capacity or that increased on street parking would be detrimental to road safety.
7. The second reason for refusal claims that a small number of external steps, to a proposed external door serving a ground floor managers office, would result in an unacceptable level of noise and disturbance, overlooking and loss of privacy to 24 Queens Road. No reasoning or justification has been provided as to how the steps and door to a small office would be any different to the previously approved office window in the same position, or to any of the other windows in this elevation, or the footway along the boundary of No.24 Queens Road, in terms of noise, disturbance or overlooking. I have not been advised that the planning committee members visited either the appeal site or No.24 before making such a judgement.
8. The Council has failed to produce evidence to substantiate its reasons for refusal and no sound planning reasons have been provided to justify the Council making a different decision to its previous decision on a recent and almost identical scheme. In reaching their decision, Members were fully aware of the previous permission, the risk of an award of costs and the facts that the parking proposals were entirely unchanged and that only very minor non-material amendments to substitute two windows with doors and steps to them were proposed.
9. The unreasonable behaviour has resulted in the applicant incurring expense in relation to the entire appeal and costs process, both of which could have been avoided altogether.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Fenland District Council shall pay to Mr Ben Mauremootoo, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicant is now invited to submit to Fenland District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Bartlett

INSPECTOR