



Costs Decision

Site visit made on 5 November 2024

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2024

Costs application in relation to Appeal Ref: APP/Y1945/W/24/3344540 41 Market Street, Watford, Hertfordshire WD18 0PN

- 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 Shakeel Adli for a full award of costs against Watford Borough Council.
 - The appeal was against the refusal of prior approval for a change of use from Class E offices/light industrial workshop to Class C3 dwellings (8 x units).
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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 considers the Council has acted unreasonably through what is described as inconsistent decision-making across six applications seeking prior approval for the development. The applicant considers the Council is intent on preventing the proposed development on the basis of the levels of outlook that would be provided, which the applicant states is not relevant.
4. The Council's reason for refusal for the proposal concerns natural light, which the applicant claims was not raised consistently on previous occasions. The applicant provided a technical assessment that accords with BRE guidance and which it is claimed the Council disregarded without commissioning a technical re-evaluation. The applicant considers the Council's concerns could have been addressed by greater engagement with them.
5. The applicant claims the Council's reliance on the content of other appeal decisions to support its position, which it is claimed are not directly comparable to this proposal and have not been subject to a technical assessment of natural light.
6. The applicant considers that wasted expense has been incurred in repeatedly applying for prior approval and in the costs of appealing this refusal by the Council and for the preparation of a revised Daylight Assessment. The applicant also considers that the building being vacant during the planning process has resulted in them incurring costs.

7. The Council disputes that it has behaved unreasonably and that the applicant has incurred unnecessary or wasted expense as a result.
8. This costs application concerns this appeal, not the previously submitted and separate applications for the proposed development at the appeal site. I am satisfied that the future occupiers of flats 3, 4, 5 and 7 would have no meaningful outlook whatsoever from habitable rooms. However, as the applicant notes, this is not something that can be considered in determining this prior approval and I am also satisfied from the evidence the Council did not refuse prior approval on this basis.
9. With reference to the reason for refusal, the Council is not obliged to commission a technical re-evaluation of the submitted evidence, and there is no requirement for the proposal to be considered against BRE standards. I am satisfied that consideration of the evidence has been had by the Council in reaching its decision to refuse prior approval, and that the referenced appeal decisions were intended to support its position in this regard.
10. I have reached a different conclusion to the Council with regard to natural light at the appeal property in my main decision, but this is a planning judgement. The Council is entitled to reach a different judgement if it can be substantiated. Whilst I am not familiar with the appeal decisions referenced by the Council, and had no regard to them in reaching my own decision, I am satisfied they were made to support the Council's position. It is not clear that all the referenced issues raised in these cases were considered in the applicant's technical assessment of natural light and so it is not unreasonable for the Council to have raised them.
11. Whether the Council could have engaged with the applicant more closely in the application process is outside the scope of this costs application.
12. In terms of unnecessary or wasted expense, the applicant again refers to previous applications that are beyond the scope of this costs application. Furthermore, as set out in PPG, the applicant would be expected to meet their own costs of appealing, including providing evidence to support their case. The vacancy of the building whilst the permission was sought is not an unnecessary or wasted expense. It was unavoidable whilst the appeal proposal was determined.
13. For these reasons, unreasonable behaviour by the Council resulting in unnecessary or wasted expense has not been demonstrated and so I conclude the application for an award of costs is refused.

Andrew Parkin

INSPECTOR