

Costs Decision

Site visit made on 31 October 2024

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 3rd December 2024

Costs application relating to Appeal Ref: APP/W3005/X/24/3338913 29 Cedar Avenue, Kirkby in Ashfield, Nottinghamshire NG17 8BD

- The application is made by David Price of One Home UK Ltd under the Town and Country Planning Act 1990, sections 195 and 322 and Schedule 6, and the Local Government Act 1972, section 250(5), for a full award of costs against Ashfield District Council.
 - The appeal was against the refusal to grant a lawful development certificate for "Change of Use of Existing 5no. Bedroom Dwellinghouse (C3 Use) to Children's Care Home for 3no. children (C2 Use)".
-

Costs decision

1. The application is refused.

Reasons for the costs decision

2. The Government's planning practice guidance ("the guidance") indicates that the parties to an appeal are expected to behave reasonably to support an efficient and timely process and that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, the party may be subject to an award of costs.
 3. The applicants base their claim on three allegations: (1) that the Council failed to co-operate with their agent during the processing of the application, (2) that the Council made vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis, and (3) that the Council acted contrary to or did not follow well-established case law. As a result, the applicant claims that they have incurred unnecessary or wasted expense in commissioning an experienced chartered town planner to prepare and lodge the appeal.
 4. The Council deny that they have behaved unreasonably. They maintain that: (1) it was the applicants' responsibility to provide sufficient information to support the application and the information provided was sufficient for the Council to determine the application without seeking further evidence, (2) the Council's decision was based on the staff rota and trip generation table provided by the applicants and (3) the Council took into account case law and came to a conclusion that they could support by reference to other appeal decisions.
-

5. My assessment of the three issues raised is as follows. (1) It might have been useful if there had been more contact, but the Council's position is defensible by reference to established procedures. (2) The Council's assessment became somewhat sidetracked by the so-called 'ambiguity' of the spare room and by their obvious preference for a planning application, but their decision was based on their own analysis of the staff rota and trip generation table provided by the applicants. I did not find their conclusions convincing but they were able to support them sufficiently in their appeal representations. (3) I agree with the Council. Both parties supplied copies of other appeal decisions in support of their contentions. I concluded that it was not possible to draw a consistent conclusion from these decisions, except to say that every case should be treated on its merits having regard to the specific circumstances arising on each occasion.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the guidance, has not been demonstrated and that an award of costs is not justified.

D.A.Hainsworth

INSPECTOR