



Costs Decision

Site visit made on 7 January 2025

by **L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 January 2025

Costs application in relation to Appeal Ref: APP/M2325/W/24/3352767

189 St. Andrews Road South, Lytham St. Annes, Lancashire FY8 1YB

- 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 Creative Living Care Limited for a full award of costs against Fylde Borough Council.
 - The appeal was against the refusal of planning permission for change of use of dwellinghouse (Use Class C3) to a residential children's care home for three young people (under 18 years of age) with non-resident carers including conversion of attached garage to a habitable room, addition of pitched roof above converted garage to side elevation and erection of single storey side/rear extension.
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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 is seeking a full award of costs due to the Council's alleged unreasonable behaviour. The applicant considers that the Planning Committee ignored the advice of their officers and those of Lancashire County Council as Highway Authority, and took on board an unreasonable request from Network Rail. The applicant contends that the reason for refusal provided by the Council was flawed, that it was not based on sound or reliable evidence or reasoning and was heavily influenced by local opinion rather than sound planning judgement. The applicant considers that this has led to extra expense as they have had to seek counsel opinion, submit a certificate of lawfulness and engage a planning consultant to pursue the appeal.
4. In terms of the Planning Committee, as decision maker they are not bound to accept the recommendations of their officers or those of statutory consultees. Members of the public are entitled to speak. The application was discussed, apparently at some length, at Planning Committee, and the Members would have had the opportunity to read and consider the officer's report ahead of the meeting. Members are able to overturn the officer's recommended decision if they decide otherwise. Therefore, I find the Council to have acted reasonably in this instance.
5. In terms of the reason for refusal, the Planning Committee considered that the proposal would lead to an intensification of use and an unacceptable level of disturbance. This was not specifically in relation to the proposed extension.

Objections had been received from local residents, and therefore the Planning Committee undertook a planning judgement, and exercised its duty to determine the planning application based on the evidence before them.

6. In terms of highway safety matters and parking, again the Planning Committee had regard to local residents and local knowledge regarding traffic movements, speeds and accidents, and as such exercised their planning judgement as decision maker. They were entitled to draw different conclusions than the highway authority. I find that the Council acted reasonably in this instance.
7. With regards to the request from Network Rail, who sought the provision of a palisade fence adjacent to the railway line, whilst the Council did not propose a condition requiring the fence, I find that they were not unreasonable to consider the impact that such a fence, were it to be provided, might have on the character and appearance of the area. The Council did not therefore act unreasonably in this regard.
8. In the Council's Statement of Case, the Council gave reasons as to why it was concerned that the proposal, by virtue of its proposed use, would cause harm to living conditions from disturbance from an intensification of use, harm to highway safety from vehicular movements and parking concerns, and harm to the character and appearance of the area through the provision of a steel fence. The above matters involve a degree of judgement. Whilst I do not agree with the Council's decision, sufficiently robust evidence was submitted to show that it did not apply its judgement in an unreasonable manner, in accordance with advice in the PPG.

Conclusion

9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

L C Hughes

INSPECTOR