
Costs Decision

Site visit made on 12 March 2025

by **H Smith BSc (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 April 2025

Costs application in relation to Appeal A Ref: APP/D4635/W/24/3354878

47 Queen Street, Wolverhampton, West Midlands, WV1 3BJ

- 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 AAJ Property Management Ltd for a full award of costs against the City of Wolverhampton Council.
 - The appeal was against refusal to grant planning permission for the demolition of rear garage structure and construction of a three-storey building comprising 6 no. serviced apartments (Use Class C1), with associated cycle and bin storage.
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Costs application in relation to Appeal B Ref: APP/D4635/Y/24/3354879

47 Queen Street, Wolverhampton, West Midlands, WV1 3BJ

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by AAJ Property Management Ltd for a full award of costs against the City of Wolverhampton Council.
 - The appeal was against the refusal to grant listed building consent for the demolition of rear garage structure and construction of a three-storey building comprising 6 no. serviced apartments (Use Class C1), with associated cycle and bin storage.
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Decisions

1. **Appeal A** – the application for an award of costs is refused.
2. **Appeal B** – the application for an award of costs is refused.

Reasons

3. 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.
4. Unreasonable behaviour can relate to procedural matters (i.e. the appeal process) or substantive matters (i.e. issues related to the planning merits of the appeal).
5. Essentially, the applicant is seeking a full award of costs due to the Council's unreasonable behaviour at the application stage and during the appeal process.
6. Whilst I appreciate the outcome of the applications would have been a disappointment to the applicant, the Council were not unreasonable in coming to the decisions from the information they had available to them. The Council's decision notices set out clear reasons why it was concerned that the proposal would cause harm to the listed building and the Conservation Area. The Council, in my view, considered the views of consultees and took a balanced approach in

considering its reasons for refusal. My decisions make it clear I agree with the Council's conclusions. I find there is no unreasonable behaviour on the part of the Council in this regard.

7. In reaching its decisions, the Council clearly recognised the location of the appeal site as within the Conservation Area, and the sizes and styles of the existing buildings in the locality of the appeal site. The Council's decision notices provide an explanation of the scale of the proposed building relative to the listed building on site and other buildings in the locality, including a recognition of the prominence of the proposed building and its siting relative to the listed building. The scale of the proposal would have been clear from the drawings.
8. The balancing exercise is a matter of planning judgement. Although expressed in relatively brief terms in the Council's refusal reasons, the outcome of the balance was nonetheless substantiated with specific reference to the harms identified by the Council. While social and economic benefits can be a material consideration, it was not in this case sufficient to outweigh the proposal's unacceptable harm and impact on the listed building and conservation area. Accordingly, the Council's assessment of this matter was not unreasonable.
9. The applicant alleges that the Council has failed to determine similar cases in a consistent manner. Although the Council has since approved a revised scheme on the appeal site, this was for a building significantly lower in height and with different fenestration detail. Therefore, I find the Council to have acted reasonably in this instance.
10. The applicant suggests that the Council failed to consider an approved scheme at 56 Queen Street (LPA Ref: 22/00242/FUL). However, the site context differs, and each scheme should be assessed on its own individual merit. Matters relating to the effect of a proposal on the significance of a designated heritage asset, and the character and appearance of an area, involve planning judgement. The Council exercised their planning judgement as decision maker and were entitled to come to the conclusions they did based on the evidence before them, against the statutory duties within the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), the adopted development plan for the area and national planning policy.
11. Accordingly, I do not find that the Council failed to properly evaluate the applications or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposal which justified its decisions.
12. The applicant alleges that they had to produce additional documents and plans, including CGI views, for the submission with the appeals. However, I have no substantive information behind this to reach a view. Even if I were to find that there has been unreasonable behaviour in the procedure leading up to the appeal, it has not been demonstrated that this has caused the applicants any additional expense.
13. Consequently, I have seen no sufficiently compelling evidence that the Council behaved unreasonably. The Council refused the applications and provided sufficient detail as to why it did not grant planning permission or listed building consent. It is not therefore the case that the appeals could have been avoided and therefore the applicant has not incurred unnecessary and/or wasted expense.

Conclusions

14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is not therefore justified for the appeals.

H Smith

INSPECTOR