



Costs Decision

Site visit made on 8 April 2025

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd April 2025

Costs application in relation to Appeal Ref: APP/U4610/W/24/3349977

43 Wren Street, Coventry CV2 4FT

- 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 Gary Fu of GFU Construction Ltd for a full award of costs against Coventry City Council.
 - The appeal was against the refusal of planning permission for change of use from a dwelling house (C3 Use) to 6 independent studio bedsits.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The Applicant alleges unreasonable behaviour on the basis that the Council has sought to rely on vague, generalised and inaccurate assertions in refusing to grant planning permission for the application. Thus, it has prevented, or delayed, development which should clearly be permitted having regard to the development plan, national policy and other material considerations. The Applicant suggests that in respect of the second and third reasons for refusal the Council has behaved unreasonably on the basis that permission should never have been required, or could have been addressed via an appropriate condition.
4. The Council produced a planning report which considered the proposal against development plan, national policy and other considerations. This articulated the Council's concerns, identified areas of conflict against specific policies and summarised those in the reasons for refusal. Furthermore, the Council has responded to the appeal and its submissions seek to support its reasons for refusal.
5. The first reason relates to harm to living conditions. In reaching their view the Council had regard to the development plan and national standards. However, whether a proposal would be detrimental to the living conditions of occupants is to a degree a planning judgement. As such, it is not unreasonable of the Council to object to the proposal on this basis. It will be seen from my decision that I have reached a similar view that the living conditions would be substandard when having regard to the relevant guidance.

6. In respect of whether the dormer complied with the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) is outside the remit of my decision and is for the Council to consider. The issue of a certificate is based on a set of circumstances rather than planning merits which the Council were entitled to consider in this circumstance. You will see from my decision that I recognise that the dormer window would conflict, to some extent, with the guidance set out in the Council's New Residential Development Design Guide Supplementary Planning Document. Accordingly, I do not find that the Council were unreasonable to reach their conclusion that the design principles of the dormer did result in some conflict with the development plan.
7. The evidence indicates that the Certificate of Lawful Existing Use for use of the appeal property as a 6-bed person HMO was issued following the refusal of the application the subject of the appeal. It is understood that, during the determination of the application, no evidence was presented to assert that the property should fall within the C4 use class and that works should be permitted development. Nevertheless, with respect to whether permission was required, the Applicant applied for full permission. The Council therefore determined the application before them in accordance with the provisions of the development plan and national policy.
8. In its Statement of Case the Council recognises the lawful use of the property. I am satisfied that the Council judged the planning application, the subject of this appeal, on its planning merits, whereby the development plan and Framework are a material planning consideration which require, amongst other things, a high standard of amenity for users. Furthermore, a planning balance was exercised by the Council having regard to other material considerations in reaching their decision. This was a matter of planning judgement, and the Council has set out its reasoning. Whilst I do not agree with their overall conclusion, I do not consider that the Council acted unreasonably in refusing permission.

Other Matters

9. The Applicant refers to whether enforcement action was proportionate to the breach of planning control and whether it was expedient to do so in respect of the dormer window. However, the appeal before me is in respect of the decision of the Council to refuse planning permission for the change of use from a dwelling house (C3 Use) to 6 independent studio bedsits. Any concerns regarding the processing of the case in respect to enforcement lie outside the remit of this decision.

Conclusion

10. In view of the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for costs is refused.

R. Gee

INSPECTOR