



Costs Decision

Site visit made on 20 May 2025

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 June 2025

Costs application in relation to Appeal Ref: APP/X2410/W/25/3361349

41 Arthur Street, Loughborough LE11 3AY

- 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 Mubeen Patel of VSHF Loughborough Ltd for a full award of costs against Charnwood Borough Council.
 - The appeal was against the refusal of planning permission for the sub-division of dwelling and single-storey rear extension to create 2no. two-bedroom flats.
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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 contends that the Council behaved unreasonably because it prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, particularly the Nationally Described Space Standard (NDSS). Furthermore, the planning application was refused on a planning ground capable of being dealt with by a condition.
4. My appeal decision identified that the issues were not capable of being dealt with by a condition, because it would not be reasonable or enforceable to restrict Flat 2 to a 3-person occupancy. The Council thus considered Flat 2 on the basis of 4-person occupancy, as did I. The Council did not act unreasonably in preventing development which should clearly be permitted, as I agreed with the Council's decision overall and dismissed the appeal.
5. The Council did misapply the NDSS 2.0sqm of storage space as being additional floorspace; the NDSS footnote 1 identifies that built-in storage areas are included within the overall Gross Internal Area (GIA). For both flats, the Council therefore considered that 2sqm more space would be needed than required by the NDSS. This would have affected the Council's overall judgement of the extent of the GIA deficiencies. However, based on the correct figures I still found a deficiency of an extent to justify dismissing the appeal. Therefore, despite the Council's unreasonable behaviour, the appeal would still have been necessary overall. The extent of the applicant's appeal evidence concerned solely with rebutting this element is not significant, therefore there is insufficient evidence that they incurred unnecessary or wasted expense through solely attempting to refute this element.

6. The Council considered that the Flat 1 basement could not contribute towards the total amount of habitable accommodation. Although I found it would be acceptable for use as a utility room, this would be subject to various measures to bring it up to an appropriate standard. As well as ventilation and plumbing as identified on the plan, general measures would be required such as wall and floor treatments.
7. Furthermore, my site visit identified that the proposal as built does not align with the submitted plans, despite the application form identifying that the development was completed in December 2021. It was also only at appeal stage that additional information and clarity about the basement was provided, including on a revised Planning Drawing. In taking all the evidence into account, I therefore find it reasonable of the Council to consider there was uncertainty overall as to whether the basement would provide adequate accommodation, and for this to be a matter of planning judgement in this instance.

Conclusion

8. Overall therefore, I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

L N Hughes

INSPECTOR