
Costs Decision

Site visit made on 4 February 2025

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2025

Costs application in relation to Appeal Ref: APP/Z4310/W/24/3347942 286-316 Scotland Road, Everton, Liverpool L5 5AE

- 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 Aspire Studios and Local Solutions for a full award of costs against Liverpool City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for change of use of the northern part of the building and the erection of a single storey rooftop extension to form a sui generis HMO (39 bedrooms / 39 persons) with shared communal facilities) across all floors; partial demolition of single storey structure and removal of exposed steel frame at rear; use of basement as a gym, laundry room and cycle parking; provision of outdoor amenity space, refuse storage and cycle parking at rear; public realm landscaping works on Scotland Road frontage; minor reconfiguration of existing car park at rear; infill of existing underpass and closure of redundant vehicular access; replacement of all existing windows with UPVC framed windows; insertion of new windows and doors; replacement of the entirety of the existing corrugated cement particle board roof with a new anthracite-coloured powder-coated metal standing seam roof; installation of PV panels on the west sides of both the replacement roof and the 4th floor extension roof; removal of all existing external ductwork and roller shutters from windows; hard and soft landscaping at rear; continuation of the existing Local Solutions' young persons supported accommodation (32 bedrooms and communal rooms) and its associated support hub, offices and staff facilities, to be reconfigured to occupy the southern part of building (all floors).
-

Decision

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

Reasons

2. The National 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 or wasted expense in the appeal process. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
3. The appellant's claim for costs is based on the unreasonable behaviour of the Council in the way they handled and considered the appeal application. In the appellants view this relates to the fact that the Council failed to determine the appeal application within the requisite timescale and that, following the

submission of the appeal, the Council proceeded to grant planning permission for a similar development, thereby, in the view of the appellants, conceding on all the grounds on which they had sought to defend the appeal application. As such, in the view of the appellant, these all add up to unreasonable actions of the Council, which has led them to the unnecessary expense in pursuing the appeal.

4. The application was not determined by the Council and had been registered with it for some months before the appeal was lodged. From the evidence before me, it is clear that the Council had a number of issues in relation to the design of the proposed development and living conditions of future residents, amongst other things. On all these issues, it is also clear that the appellant was seeking to address these matters through additional details, or changes to the scheme, but, given the time taken and lack of resolution, felt that their only recourse was to appeal on grounds of non-determination.
5. In this respect, I have some sympathy with the appellant, in that they were clearly attempting to resolve issues and that they were receiving extremely limited feedback from the Council. This was clearly a frustrating position for the appellant.
6. It is however clear from the evidence submitted at the outset of the appeal (before the recent grant of planning permission) that the Council had a number of concerns, and I find that they were able to adequately substantiate these concerns in their appeal submissions. On that basis, whilst I share the appellant's frustration that, due to the actions of the Council, they had to resort to lodging the appeal, I am not convinced that this amounts to such unreasonable behaviour by the Council as to justify the awarding of costs on these grounds.
7. I agree with the appellant that it is likely that had the Council approached the appeal application in a more proactive way, it is probable that the matters considered during the appeal could have been reduced and become more focused. That said, it is clear that the Council appeared to have an in-principal objection to the rooftop extension. Therefore, it would appear unlikely that the Council would have approved the appeal scheme in its current form in any event due to this.
8. It is claimed by the appellant in their evidence that the recently approved application is identical to the appeal scheme, save for the proposed rooftop extension. This is disputed by the Council, although the Officer's Report for the recently approved scheme suggests otherwise. Having reviewed the evidence, I agree with the Council that there appear to be a number of differences, albeit relatively minor between the appeal scheme and the approved scheme, the majority of which appear to have been made by the appellant to address specific issues.
9. In dealing with any planning application, the decision maker is required to consider the proposal upon its individual merits when assessed against the relevant development plan policies. In this instance, it appears to me that in granting planning permission, the Council did just that. Therefore, in no way do I see that this could be interpreted as the Council conceding on the points raised in the appeal, irrespective of the minor nature of the changes. In effect, the Council considered the revised application and, on balance, with the changes made, which included the omission of the rooftop addition, along with

the provision of additional information, concluded it was acceptable. Furthermore, following the grant of planning permission, the Council confirmed that matters in relation to inclusive access no longer formed part of their reasons for refusal and that they were no longer pursuing this issue as a reason for refusal on the appeal proposal. For those reasons which they were still pursuing, they provided evidence to demonstrate why, in light of the approved development, those issues remained. For these reasons, I do not consider this amounts to unreasonable behaviour by the Council.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Adrian Hunter

INSPECTOR