

Costs Decision

Site visit made on 12 April 2016

by **H Cassini DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2016

Costs application in relation to Appeal Ref: APP/J0540/W/16/3142593 Land at Quinton Garth, Hartwell Court, Westwood, Peterborough PE3 7EL

- 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 Paul Sharman for a full award of costs against Peterborough City Council.
 - The appeal was against the refusal of planning permission for the erection of House in Multiple Occupation providing 6 bedsitting rooms with a shared kitchen and dining facilities.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance - Appeals (PPG) advises that costs may be awarded where a party has behaved unreasonably and that the unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The Planning Committee decided to refuse the application contrary to the advice of their professional officers who had produced a written report analysing the effects of the proposal on a number of matters. Authorities are not bound to accept the recommendations of their officers. However, paragraph 049 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications. Examples of this include the failure to produce evidence to substantiate each reason for refusal and reliance on vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
 4. The Planning Committee appear to have given little weight to the information presented by the appellant, their own professional officers and the consultation response received from the Police Architectural Liaison Officer. Instead the Council reached the view that the development would be incompatible with the existing residential character of the area due to the *'intensity of the use of the site in terms of occupation, would result in an unacceptable vulnerability to and fear of crime'*. Also, that the proposal would adversely affect the amenity of neighbouring occupiers due to general disturbance.
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5. In respect of the Council's concern over the '*intensity of the use of the site*' the planning history demonstrates that the Council had previously found the site to be acceptable for residential use. The appellant confirms that the proposal is for six, single person bedsits and therefore it is anticipated that only six occupants will reside in the House in Multiple Occupation. This is of a similar density to the occupancy of the proposal previously granted permission. Notwithstanding this, even if an increase in occupancy occurred, a potentially more intensive use in itself does not necessarily result in neighbouring residents being the subject of increased disturbance.
6. The concerns of the planning committee and objections received are noted in terms of vulnerability to and fear of crime. However, there is no evidence before me to support the view that a more intensive use of the site would increase crime or other anti-social behaviour. Moreover, no objection to the proposal was received following consultation with the Police Architectural Liaison Officer.
7. Accordingly, the expressed fear of crime was a vague and generalised assertion about the proposal's impact, which was unsupported by objective analysis and not supported evidentially. The assertion that the proposal would adversely affect the amenity of neighbouring occupiers due to general disturbance was not clarified or supported evidentially.
8. By refusing the application on this basis the Council acted unreasonably as described at paragraph 049 of the PPG. The appellant should not have needed to bring these issues to appeal. He has therefore incurred unnecessary expense in doing so. Consequently, I find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Peterborough City Council shall pay to Mr Paul Sharman, the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to Peterborough City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Helen Cassini

INSPECTOR