



Costs Decision

Site visit made on 12 November 2012

by C Thorby MRTPI IHBC

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

Decision date: 31 December 2012

Costs application in relation to Appeal Ref: APP/Q0505/A/12/2180931 25 Cambridge Place, Cambridge, CB2 1NS

- 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 Richard Mutty for a full award of costs against Cambridge City Council.
 - The appeal was against the refusal of planning permission for change of use from offices (Class B1) to form 3no studios and 2no 1 bedroom flats with associated access arrangements and external alterations.
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Decision

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

Reasons

2. Circular 03/2009 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.
3. Reason for refusal 1 of the decision notice is wholly inadequate, as it fails to explain why a lack of parking spaces for visitors would make the scheme unacceptable. The alleged conflict with policy 8/10 of the Cambridge Local Plan to meet the Council's parking standards is insufficient justification as the standards set a maximum parking level and allow for reduced levels where lower ownership is expected. Additionally, the reasoning for policy 8/10 clearly promotes lower levels of private car parking where good public transport exists.
4. The Council's statement tries to expand the reason for refusal, alleging inconvenience to visitors without any explanation of what this means or why it would cause harm. They suggest that 'ad-hoc fly parking' would take place. This is an unexplained term which I have assumed in my decision letter would mean parking somewhere along Cambridge Place potentially affecting highway safety or annoying other residents. However, the Council fail to say how this could take place when there are double yellow lines on the road, preventing parking, which could be enforced.
5. With regard to reason for refusal 2, the Council failed to put forward any justification in their written statement as to why the bins and cycles would be left out on the pavement. They completely failed to justify why the bins and cycles would detract from the street scene or cause inconvenience, as alleged in the reason for refusal. There is no quantitative information about why they

consider the bin and cycle store would be too small. They put forward no justification about how they have judged the integration into the design to be unsuccessful, or on what grounds they have judged the ground floor to be cramped. The Council's statement makes a point about odour and disturbance from the daily use of the bin store, in relation to the ground floor unit, but this is not in the reason for refusal.

6. Reason for refusal 3 was overcome during the appeal process; however, the appellant had expressed willingness to enter into a legal agreement and this process was underway during the application process. It is highly unlikely that the application would have been refused solely on these grounds.
7. I consider that the Council failed to substantiate their reasons for refusal 1 and 2, and that reason for refusal 3 could have been overcome during the planning application process. Therefore, planning permission should have been granted. I find that unreasonable behaviour resulting in unnecessary expense has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and 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 Cambridge City Council shall pay to Mr Richard Mutty, the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to Cambridge 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.

Christine Thorby

INSPECTOR