
Costs Decision

Site visit made on 15 August 2016

by Kenneth Stone BSc (Hons) DipTP MRTPI

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

Decision date: 08 September 2016

Costs application in relation to Appeal Ref: APP/P1133/W/16/3144985 1 The Square, Old Exeter Street, Chudleigh, Devon TQ13 0LD

- 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 Ms Maria Cochrane for a full award of costs against Teignbridge District Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing single storey commercial unit and a mixed use redevelopment to comprise 1 No. retail unit, 1 No. townhouse and 6 No. residential apartments.
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Decision

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

Reasons

2. An award of costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The appellant's claim is for a full award of costs on the basis that the Council acted unreasonably in refusing planning permission contrary to its professional officers' advice. It is contended that the proposal is clearly supported by adopted development plan policies and other supplementary documents of the Council and accords with national policy. Furthermore it is contended that the Council's reasons are based on inaccurate assertion and are unsupported by objective analysis. On this basis the appellant has been required to proceed to an unnecessary appeal which has resulted in the appellant incurring unnecessary expense.
 4. The Council contend that the responsibility of determining planning applications rests with the Committee and Members are entitled to disagree with the advice of their officers if they have a legitimate reason for doing so. It is noted that Members had undertaken a site visit and were familiar with the surroundings including the extent and nature of the conservation area and the presence of surrounding listed buildings. It is also legitimate for Members to apply different weight to the evidence and for them to including the substantive objections raised by the public.
 5. The appeal has turned on primarily a character and appearance argument, relating to quality of design and how well the scheme integrates with the distinctive character of the area. There is also significant material and weight to be applied to the effect on heritage assets. In this regard I accept that the
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effect on character and appearance can be somewhat subjective, however, in my decision I have agreed with many of the concerns raised by the Members related to how well the proposal integrates into the surroundings and the effect this would have on the affected heritage assets. The Members were familiar with development plan policy and the Conservation Area statements and applied differing interpretation to those elements of the documents that the appellant relies on. I do not see that their interpretation was unreasonable the documents are not so categorical as the appellant suggests and there is many ways in which the identified aspirations could be achieved rather than the scale size and form of building proposed in this appeal. The Members have relied on development plan policy and, in my view, a reasonable assessment of the effect of the proposed design on the distinctive character of the area.

6. Whilst volume of objections or representations is not necessarily material the nature of the issues raised in much of this material did go to the heart of the main issue and provided further evidence and support for the Committee's decision, it was therefore not wrong for this to be given weight in the determination of the application.
7. As there is no unreasonable behaviour identified it follows that the costs application fails.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Kenneth Stone

INSPECTOR