The Planning Inspectorate

Costs Decision

Site visit made on 14 November 2016

by Rachel Walmsley BSc MSc MRTPI

Decision date: 9th December 2016

Costs application in relation to Appeal Ref: APP/T3725/W/16/3154102 Weston House (formerly The Bull Inn), Weston under Wetherley, Leamington Spa CV33 9BP

- 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 Dickinson. Bains and Thompson for a partial award of costs against the decision of Warwick District Council.
- The appeal was against the refusal of the Council to grant planning permission for the erection of three detached two storey dwellings, following demolition of derelict public house.

Decision

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

Reasons

2. I have considered this application for costs in light of the Planning Practice Guidance (PPG). 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. At the pre-application stage, the Council advised that an extension or alteration of the original building would be acceptable provided that it was *in the order of 30% over the floor area of the original building as defined*. Other matters were raised and the advice concluded that *the erection of three houses and associated garaging as proposed would be contrary to the National Planning Policy Framework (the Framework) and would not be supported by the local planning authority.* Notwithstanding the Council's acceptance of its error in referring to a 30% threshold in its pre-application advice, this related to the extension of a building which was not relevant to the development for three new dwellings proposed. As such I find no indication that the advice at the pre-application stage would have resulted in the appeal being avoided.

4. The Council's decision on the planning application was based largely on the Officer's report to Planning Committee. The report raised concerns that the development would be materially larger than the original building on the site when compared against the Council's threshold of 9%. I note the discrepancy in floor areas between the appellant's calculations and those reported to Committee. However, as both calculations exceed the 9% threshold, I have no

reason to believe that the Council would have reached a more favourable decision had the appellant's calculations been presented.

5. It is apparent that the judgement of *Cheshire East Council v SSCLG and Richborough Estates Partnership*[1] and matters of housing land supply were not considered when the Council made its decision on the planning application. The judgement reinforces the weight given to footnote 9 of the Framework, in light of a lack of housing land supply and restricts development in the Green Belt. I sympathise with the appellant that these details were omitted in the report to Planning Committee. However, I find no reason why the Council would have made a more favourable decision in light of the additional evidence identified given that it does not weigh in favour of the development proposed. As it stands, the Council's reasons to refuse the planning permission were clear and sound. In this respect the Council's actions were reasonable and did not result in the appellant being required to incur unnecessary or wasted expense in the appeal process.

6. It is not clear within the application for an award of costs if a partial or full award has been applied for. The appellant considered that the Council acted unreasonably on grounds relating to the first reason for refusal concerning development within the Green Belt. It is on this basis that I have considered the application as one for a partial award of costs, pertaining to matters of Green Belt and not affordable housing.

Conclusion

7. I have found that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and therefore I conclude that a partial award of costs, towards the expense of the appeal, is not justified.

R Walmsley

Inspector

[1] [2015] EWHC 410 (Admin)