
Costs Decision

Unaccompanied site visit made on 1 May 2018

by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 12 June 2018

**Costs application in relation to Appeal Ref: APP/J3720/W/17/3180167
39 New Street, Shipston-on-Stour, CV36 4EW**

- 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 & Mrs Kevin Webber ("the Applicants") for a full award of costs against Stratford on Avon District Council ("the Council").
 - The appeal was against the refusal of planning permission for the conversion of the current dwelling into three; providing two additional homes.
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Decision

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

Procedural Matters

2. The appeal against the Council's refusal of planning permission was allowed and conditional planning permission was granted. The Appeal Decision was issued on 4 May 2018 ("the Appeal Decision").
3. The costs application was submitted in writing in July 2017. The Council did not respond to the application.
4. I explained in paragraph 4 of my Appeal Decision why I did not review the Committee Meeting via the webcast and I have not done so in dealing with this costs application.

Reasons

5. The Planning Practice Guidance ("the PPG") advises that:
 - a) Parties in planning appeals normally meet their own expenses.
 - b) Costs may 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.
 - c) Local planning authorities are unlikely to have costs awarded against them where they have exercised their duty to determine planning applications in a reasonable manner.
6. The Applicants case for an award of costs is set out in their application and need not be repeated in this Costs Decision.
7. The Case Officer recommended the appeal proposal for permission as set out in the Committee Report. However the Planning Committee are not bound to follow their Officer's advice.

8. The Council's decision to refuse the application was based on planning grounds and the Council produced its written statement to support their grounds for refusing the application. In support of these they made reference as to why the proposal did not comply, in their assessment, with relevant policies of the Development Plan.
9. I have explained in my Appeal Decision why I do not agree with the Council's assessments that the proposal would harm the character and appearance of the Conservation Area and that part of Shipston-on-Stour within which No. 39 is situated and why the lack of off-street car parking would not result in highway safety issues or result in harm to amenity. However, I consider all these issues to be matters of planning judgement and I do not consider the Council's decision to refuse the planning application to be unreasonable.
10. I have also noted the Applicant's claim that the Senior Planning Officer and Solicitor (who were advising the Planning Committee when the application was determined) were of the view that the works to the west elevation of No. 39 amounted to permitted development. However, that was not the question which the Planning Committee had to determine when the planning application was before them. In my experience there are situations where permitted development rights (if exercised) would result in development that was contrary to the Development Plan for the area. In any event the views of the Officers referred to were made before it was established that the planning unit at No. 39 comprised a dwelling-house.
11. I also understand the Applicants' frustration that arises where pre-application advice is sought and a positive response is obtained only for the subsequent application to be dismissed. That pre-application advice is a material consideration when determining any formal application that follows on from it. However, as stated in the documentation the pre-application advice provided by Officers does not bind the Local Planning Authority's formal decision making function.
12. I have considered all of the other matters raised by the Applicants but the evidence before me does not lead me to the conclusion that the Council acted unreasonably when refusing the appeal proposal.
13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Tim Belcher

Inspector