



Costs Decision

Site visit made on 19 August 2019

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th September 2019

Costs application in relation to Appeal Ref: APP/C1950/W/19/3230504 Maynard House, 1 The Common, Hatfield AL10 0NF

- 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 James Taylor Homes Ltd for a full award of costs against Welwyn Hatfield Borough Council.
 - The appeal was against the refusal of planning permission for the part demolition of the existing building, rear and second floor extension to provide 8 no two bedroom apartments (6 no net dwellings), car parking, refuse and recycling store and retention of office on part of ground floor.
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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 (the PPG) 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 expense in the appeal process.
3. The applicant has applied for costs on the basis that the application was refused contrary to policies in the adopted Development Plan and the National Planning Policy Framework (the Framework), specifically paragraph 130 which states that 'where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.' The applicant considers the reason for refusal has not been substantiated or justified by the Council. It is also contended that the decision was taken for political, rather than technical reasons. This has resulted in the proposal being refused on unfounded reasons and the applicant being put to unnecessary expense in submitting the appeal.
4. Paragraph 49¹ of the PPG states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. In this case the Council's Officers recommended approval but the Council Members did not accept the recommendation. The decision is one which is a

¹ Paragraph: 049 Reference ID: 16-049-20140306

matter of judgement. While the Members are not duty bound to follow the advice of their professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.

6. In this case, the Members took the view that the proposed design would be unsatisfactory and missed the opportunity to develop the site in harmony with proposals for the redevelopment of Hatfield Town Centre. In particular, they considered that the flat roofed extension would make the building look outdated. Whilst I understand that Members may have a preference for a pitched roof building on this site, no defence of this position has been provided other than that the design is unsatisfactory and would not help the regeneration of the town centre. There is no objective analysis of this.
7. The Officer's report concluded that the proposed development would provide an acceptable standard of design that would maintain the character of the area. It will be seen from my decision that I have also found this to be the case.
8. I have no evidence before me that the decision was politically based. However, the basis of the refusal appears to be on a point of preference rather than planning judgement and I have not been provided with any substantiated reasons as to why, on planning grounds, the proposal is unacceptable.
9. The refusal of planning permission on this basis therefore constitutes unreasonable behaviour contrary to the basic guidance in the Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that an award of costs is justified.

Costs Order

11. 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 Welwyn Hatfield Borough Council shall pay to James Taylor Homes Ltd, the costs of the appeal proceedings described in the heading of this decision.

Rachael Pipkin

Inspector