



Costs Decision

Site visit made on 21 January 2020

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2020

Costs application in relation to Appeal Ref: APP/T3725/W/19/3240904 4 Beauchamp Hill, Leamington Spa, CV32 5NS

- 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 Vik Tara on behalf of Student Homes for a full award of costs against Warwick District Council.
 - The appeal was against the refusal of planning permission for a dwelling for use as student accommodation.
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Decision

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

Reasons

2. Planning Policy Guidance 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 reasons for refusal set out in the decision notice are complete, precise, specific and relevant to the application. They also clearly state that the proposal would conflict with the relevant policies of the development plan. Whilst the Council did not submit a statement of case as part of the appeal process, these reasons for refusal were adequately substantiated by the Council in its Officer's Report, which demonstrates how the proposal would be harmful to the Royal Leamington Spa Conservation Area; the adjacent listed buildings; the living conditions of the neighbouring occupants and future occupants; and, highway safety.
4. Whilst I appreciate that the appellant does not agree with the outcome of the application, the Council were not unreasonable in coming to that decision and there is no evidence to suggest that they have unreasonably prevented or delayed the development. Indeed, having considered the appeal on its own merits, I have concurred with the Council. Furthermore, I am satisfied that the Council assessed the proposal having a full understanding of what was being applied for.
5. I note that the Council did not address the conditions suggested by the applicant that they considered would address the concerns they had raised. However, I do not consider that this is unreasonable. Indeed, I have a duty myself to assess whether or not these conditions would meet the six tests set out in the National Planning Policy Framework. As identified in my Appeal Decision, the suggested mitigation measures would not meet these tests.

6. I acknowledge the applicant's frustration that they feel they were not given the opportunity to amend the proposal to something that the Council would find acceptable during the course of the planning application. However, amendments were made prior to the Council's determination of the application. The Council provided feedback to the appellant and it was open to them to withdraw the application and submit a further scheme or continue to determination. Whilst the Council have a duty to work constructively with an applicant to address concerns raised, this must be within reason. It would be unreasonable to expect the Council to entertain the submission of numerous iterations of a scheme. I find therefore that the Council did work constructively with the applicant in the instance.
7. The applicant also contends that the Council object to the proposal in principle. However, the Council confirm that this is not the case and based on the Officer's Report there is nothing to suggest that it does.
8. I have also had regard to the appellant's contention that the Council had not had full regard to the public benefits of the provision of student accommodation. Whilst the Officer's report states that there are 'no public benefits' that outweigh the harm to the heritage assets, I do not read it as meaning there are no public benefits. It simply means there are no public benefits that outweigh the harm, a conclusion that I similarly came to.

Conclusion

9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, an award for costs is therefore not justified.

Alexander Walker

INSPECTOR