
Costs Decision

Site visit made on 14 May 2020

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th June 2020

Costs application in relation to Appeal Ref: APP/P1940/W/19/3243537 16-18 Lower Road, Chorleywood, Rickmansworth, Herts WD3 5LQ

- 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 Chorleywood Retail Limited for a full award of costs against Three Rivers District Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing supermarket at 16-18 Lower Road, and the construction of a replacement supermarket with eight new apartments above.
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Decision

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

Reasons

2. The Planning Practice Guidance (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 or wasted expense in the appeal process.
3. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The application is predicated on the Council's refusal of planning permission, which was against the recommendation of the Council's professional officers. Therefore, in summary, it is put to me that the Council Members of the planning committee took a different course of action in refusing the planning application without adequate reason to do so.
5. The first reason for refusal relates to the proposal's lack of external amenity space resulting in unacceptable living conditions for future occupants of the proposed residential development. However, the Council is not duty bound to follow the advice of its professional officers, but 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. As detailed in my S78 decision, I was made fully aware of other appeal decisions along with a range of other considerations which the applicant put forward to support their assertion that a lack of outdoor amenity space within the development scheme was not a justifiable reason for refusal. Whilst I took all relevant considerations into account, I did not agree with the

applicant, and found that a lack of outdoor amenity space was fatal to the scheme's acceptability.

6. I agree with the applicant that the Council failed to substantiate the second and third reasons for refusal¹, and the assertions that were made by the Council in support of these reasons were vague and lacked substance, failing to take into account local context. Be that as it may, ultimately the Council did not refuse a development that should otherwise have been permitted, given that I dismissed the appeal on the basis of the Council's first reason for refusal. The applicant has not demonstrated that unnecessary or wasted expense resulted from the Council's second and third refusal reasons alone.

Conclusion

7. Taking all of the above into account, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated in this case and that an award of costs is not justified.

Matthew Woodward

INSPECTOR

¹ Concerning the impact of the proposal in relation to privacy, outlook, noise and disturbance of existing and future occupiers, and car parking respectively.