
Costs Decision

Site visit made on 8 September 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2020

Costs application in relation to Appeal Ref: APP/Y1110/W/20/3253452 St Andrews Yard, Willeys Road, Exeter EX2 8EP

- 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 G Chilvers of Riviera Equity Ltd for a full award of costs against Exeter City Council.
 - The appeal was against the refusal of planning permission for demolition of existing single storey business premises and construction of 9no residential apartments along with onsite parking and associated landscaping.
-

Decision

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

Reasons

2. The National 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 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 for costs relates to the fact that the Council Officer's recommended that planning permission be granted for the proposal, but that Council Members took a different course of action, which is alleged to have been taken without adequate reasons to do so.
5. While Council 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. In refusing the application, Council Members considered that the proposed development would cause harm to the character and appearance of the area.
6. The evidence base for the Council Members' decision appears to be based on a number of local objections, information supplied from surrounding residents, and their own local knowledge. On this basis, the Planning Committee were entitled to take the view that, at the point they were assessing the application, there was sufficient evidence before them to indicate that they could reasonably reach a different decision to that being recommended to them by

their officers. Whilst it will be seen from my decision on the appeal application that I have come to a different view, I am however satisfied that the Council has shown that it was able to substantiate its reason for refusal.

7. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Adrian Hunter

INSPECTOR