
Costs Decisions

Site visit made on 1 October 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2020

Costs application in relation to Appeal Ref: APP/M3645/W/19/3242672 26 and 28 Church Lane, Oxted RH8 9LB

- 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 Churchill Retirement Living Ltd for a partial award of costs against Tandridge District Council.
 - The appeal was against the refusal of planning permission for the redevelopment of the site to form 26 Retirement Living apartments, together with access, communal facilities, car parking and landscaping.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The Submission for the Appellant¹

2. This is an application for a partial award of costs in relation to time spent at the Hearing, in relation to the car parking reason for refusal.
3. The Council's SPD sets out a maximum parking standard but explicitly links this to individual assessment. The appellant undertook that assessment in accordance with the policy, as set out in the Transport Hearing Statement. The evidence submitted demonstrates that the demand for car parking would be 0.28 spaces per unit, with 0.38 spaces per unit being proposed. As such, the scheme would not create any additional off-site additional parking demand. The on-street parking restrictions on Wheeler and Peters Avenue are therefore not relevant.
4. No evidence was provided by the Council to rebut these two points. The claim that there is a higher rate of car ownership was not properly evidenced in relation to older persons' accommodation and the 2007 application accepted a lower ratio. The Council has conflated the two issues of: 1. is there excess demand; and, 2. how that can be accommodated.

The Response by the Council

5. The Council responded by stating that it was not convinced by the individual assessment, as the three sites assessed were not directly comparable and the individual status of the District had not been taken into account. It also maintained that the need for car parking was not fully justified and therefore there is a likelihood of overspill, resulting in turn in parking stress and highway

¹ The application was made orally at the Hearing

conflict. The Council confirmed that it enforces local parking standards which reflect the area and the census data.

Reasons

6. The Planning Practice Guidance advises that, irrespective of the outcome of an 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.
7. The appellant's Transport Hearing Statement was submitted with their Statement of Case on submission of the appeal. This provided an individual assessment of the likely parking demands, as required by policy. The Council did not respond to the detail of this in its Appeal Statement and did not engage with this element of the evidence until the Hearing itself. Had it done so, then it may have helped to inform the Statement of Common Ground to the extent that the matter was no longer at issue, or at least narrowing the scope of disagreement in relation to the car parking reason for refusal.
8. The Transport Hearing Statement was necessary to address the concerns raised and no expense was wasted in this regard. However, the Council did not engage with its findings at the Hearing or produce any substantiated evidence to rebut it. I consider the Council's behaviour was unreasonable in this regard, leading to unnecessary and wasted expense for the appellant in dealing with the matter at the Hearing.

Costs Order

9. 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 Tandridge District Council shall pay to Churchill Retirement Living Ltd, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in dealing at the Hearing with matters arising from the parking reason for refusal subsequent to production of the Transport Hearing Statement; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The appellant is now invited to submit to Tandridge District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

O S Woodward

INSPECTOR