
Costs Decision

Hearing Held on 8 February 2021

Site visit made on 11 February 2021

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 09 March 2021

Costs application in relation to Appeal Ref: APP/F3545/W/19/3243763 Cornhill Walk Shopping Centre, Brentgovel Street, Bury St Edmunds IP33 1BE

- 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 Peter Murphy on behalf of Knightspur Homes for a full award of costs against West Suffolk Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for development described as 'demolition and redevelopment of the Cornhill Walk Shopping Centre to provide mixed use development, comprising 1,561 sq.m (Use Classes A1/D2) at the ground floor and construction of 48 residential units (Use Class C3) to three upper floors, including parking, bin storage, access and other associated works as amended by plans received 13 December 2018, 27 March 2019 and 5 July 2019'.
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Decision

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

The submissions for Mr Peter Murphy on behalf of Knightspur Homes

2. The applicant has advanced that they worked with the Council prior to and during the course of the planning application to address concerns. The decision did not acknowledge the effort made by the applicant to collaborate with officers to achieve a balanced assessment of the proposals. The refusal of planning permission therefore represents unreasonable behaviour by the Council.
3. It is argued that the first reason for refusal is contrary to the assessment made by officers that the design and appearance of the proposals were acceptable. My attention is drawn to Historic England's consultation response which also offered support to the appeal proposal.
4. It is advanced that no explanation was provided by the Council as to why the proposals were considered harmful to the character and appearance of the surrounding area. It is argued that the committee minutes and decision notice do not quantify the level of harm to designated heritage assets identified by the Council and it is unclear how the balance of harm versus public benefit was arrived at.
5. Furthermore, it is advanced that the relationships between existing buildings and the appeal proposal reflect the nature of the town centre setting and

residential relationships that exist elsewhere, and that the Officer's conclusions were clear and reasoned.

6. It is claimed that unnecessary and wasted expense in pursuing the appeal has been incurred in terms of the appointment of a planning consultant, architect and heritage consultant.
7. However, no unreasonable behaviour has been advanced in relation to the second reason for refusal relating to the required planning obligations.

The response by West Suffolk Council

8. The Council has advised that it worked with the applicant in a positive and proactive way and at no point acted unreasonably. They state that although the officer recommendation was that of approval, members are nonetheless entitled to arrive at a different view based on their own planning judgement and assessment of material planning considerations.
9. It is advanced that the refusal reasons are clearly linked to relevant policies and have been adequately evidenced.

Reasons

10. There is no dispute between parties that they had worked positively and proactively prior to the decision being made by Members.
11. However, Members are entitled to arrive a different view. In this case conflicts with the development plan were identified and their decision was clearly presented through the subsequent appeal.
12. Furthermore, in exercising my duty under sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, from my examination of all of the evidence before me and the observations made during my site inspection, harm is evident and is of a nature and degree that has led to the failure of the appeal for the reasons set out in my Decision.

Conclusion

13. For the reasons given above, I do not find that unreasonable behaviour from the Council on substantive grounds, as described in the Planning Practice Guidance (PPG) is evident. Consequently, neither has any unnecessary expense in terms of making this appeal occurred.
14. As the relevant tests set out in the PPG in respect to the determination of costs applications have not been met, I conclude that an award for costs is not justified.

C Dillon

INSPECTOR