The Planning Inspectorate

Costs Decision

Site visit made on 20 April 2021

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 30 April 2021

Costs application in relation to Appeal Ref: APP/X2410/W/20/3265244
17 The Nook, Anstey, Leicestershire, LE7 7AZ

- 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 S Nair, Shiva Ram Ltd for a full award of costs against Charnwood Borough Council.
- The appeal was against the refusal of planning permission for the creation of a pitched roof over existing building to create additional floor for 2 apartments. Revised scheme following approval on appeal of previous scheme.

Decision

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

Procedural matter

2. The costs claim refers to the unreasonable behaviour of the local planning authority in relation to this appeal and a previous appeal[1]. However, as the previous appeal was determined over a year ago the opportunity to make an application for costs in relation to it has passed. As a result, I have determined this application in relation to the current appeal only.

Reasons

3. Planning Practice Guidance (PPG) advises that costs may 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[2].

4. There are two claims to assess. Firstly, whether the Council in refusing to enter into discussions once the application had been made acted unreasonably. Secondly, in refusing planning permission for the appeal scheme, whether the Council prevented development which should clearly have been permitted, having regard to the extant permission granted at appeal and its accordance with the development plan.

5. In relation to the first claim, PPG advises that it is at the discretion of the local planning authority whether to accept changes to an application after it has been submitted[3]. Given this consideration, and the significant changes to the design of the scheme that would have had to occur to make it acceptable to the local planning authority, the Council acted reasonably in declining to enter into discussions once the application had been made.

[1] Appeal ref APP/X2410/W/19/3242619
[2] Paragraph: 028 Reference ID: 16-028-20140306, 'Appeals', 'Why do we have an award of costs?'
[3] Paragraph: 061 Reference ID: 14-061-20140306, 'Making an application', 'Can an applicant amend an application after it has been submitted?'

6. Turning to the second claim, it is clear from the officer report that the extant permission was taken into account in the Council's determination of the application. Assessing the effect of a proposal on character and appearance involves planning judgement. On the basis of the reasoning provided by the Council in its officer report, it was reasonable for it to decide that this materially different scheme to the extant permission constituted poor design and was contrary to the development plan.

7. Taking all these matters into account, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

Ian Radcliffe

Inspector