
Costs Decisions

Site visit made on 11 August 2021

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 08 September 2021

Costs application in relation to Appeal Ref: APP/Y3940/W/21/3273155 The Royal Oak, Amesbury Road, Shrewton SP3 4HD

- 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 Mews Shrewton Ltd for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for the proposed demolition & conversion of existing buildings into new dwelling and erection of 5 new dwellings with associated landscaping.
-

Decision

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

Reasons

2. Planning Practice Guidance (the 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 expense in the appeal process. Parties in planning appeals and other planning proceedings normally meet their own expenses.
3. The PPG includes examples of unreasonable behaviour, by planning authorities. Amongst other things, this can include, "preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations" and "vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis".
4. The evidence before me confirms that the appeal scheme was recommended for approval by the Council's Officers, but that Council Members took a different view. In these respects, whilst it is acknowledged by the Applicant that the Planning Committee is entitled to take a different view to that of officers, the Applicant maintains that the Council must demonstrate, on planning grounds, why a proposal is unacceptable and should provide clear evidence to substantiate that reasoning.
5. The reason for refusal provided on the Council's decision notice is clear and maintains that the proposal would cause unacceptable harm to the character of the area which, due to plot sizes and design, would result in a cramped form of development. As a consequence, conflict with relevant development plan policy and provisions of the National Planning Policy Framework (the Framework) is alleged.

6. However, the Applicant has put it to me that the appeal scheme was considered by the Planning Committee on the grounds of highway safety without justification on planning considerations or confirmation as to which policies or parts of the development plan that the appeal proposal would conflict with.
7. In this respect, whilst it is noted that the evidence suggests that the Planning Committee did discuss and consider concerns regarding highway safety given the level of local opposition to the scheme on this ground, it is clear that Council Members did consider the effect of the proposal on the character of the area with reference to the scheme representing a cramped form of development. It appears from the evidence and submissions that it was on this basis, rather than on grounds of highway safety, that the Planning Committee resolved to refuse the planning application. Whilst I have come to a different conclusion with regards to the impact of the proposal on the character of the area, I find that the reasons for refusal as amplified within the Council's statement of case did provide clear reasons to demonstrate why the proposal was determined to be unacceptable on these grounds.
8. Notwithstanding the above, the Applicant has further put it to me that the Council have acted unreasonably by failing to consider the position with regards to a shortfall in housing land supply and that, consequently, the Council failed to have regard to a significant consideration in the assessment and determination of the planning application.
9. It is acknowledged that the Council cannot currently demonstrate a five year supply of deliverable housing land. The Planning Committee minutes do not reveal explicit consideration of paragraph 11(d) of the Framework. However, it is apparent from the minutes provided that the Council's Officer reported on the planning application and it is noted that there are references to 'much needed housing' within the area contained within their report and, on that basis, there is no substantive evidence that the balance outlined in that part of the Framework was not in members' minds when making the decision.
10. Based on the evidence before me, although I have determined the appeal in favour of the Appellant, I find that the Council has not acted unreasonably, either substantively or procedurally, and has justifiably assessed the proposal on the basis of the information available. Furthermore, the Council has provided clear and justifiable reasons as to why it has reached its decision.
11. In conclusion, I find that the unreasonable behaviour resulting in unnecessary or wasted expense, as described within the PPG, has not been demonstrated in this case and that, therefore, an award of costs is not justified.

Mr A Spencer-Peet

INSPECTOR