

Costs Decision

Site visit made on 17 November 2021

by Michael Evans BA MA MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15TH December 2021

Costs application in relation to Appeal Ref: APP/G2245/D/21/3280857 The Old Bakehouse, Six Bells Lane, Sevenoaks TN13 1JE

- 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 Saleem Ali for a full award of costs against Sevenoaks District Council.
 - The appeal was made against the refusal of planning permission for the conversion of disused outbuildings (washroom and outdoor WC), and an enclosed courtyard into a one bedroom annex for the Old Bakehouse.
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Decision

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

Reasons

2. In paragraph 30 of the Planning Practice Guidance (PPG) concerning appeals it is advised that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
 3. The Appellant expresses concern that the Committee that decided the application failed to have adequate regard to the previous appeal decision at the site and the advice of Planning Officers, including the Conservation Officer, that the scheme should be approved. It is pointed out that the scheme was the subject of considerable discussion and correspondence with the Council prior to the application the subject of this appeal. It is also claimed that there is no explanation as to why the design of the scheme would be unacceptable and there is no substantive basis for the decision. In addition, the Appellant says this happened because of political pressure.
 4. Moreover, I agree with the Appellant that the reason for refusal is vague and generalised. Furthermore, the minutes state: *"Members discussed the application and expressed concerns that the proposal did not preserve or enhance the conservation area. Further concerns were expressed over the size of the roof"*.
 5. However, the clear failure of the Council to provide any meaningful evidence does not mean that, as a matter of principle, the appeal should succeed. The Appellant indicates that the area of contention was the design of the roof but this view is not an accurate reflection of the previous appeal decision, where the scheme was also rejected because of the inadequate information regarding the
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potential effect on nearby potentially historic fabric. I must have regard to the previous appeal decision that is before me, as well as the evidential requirements of the Framework. I also have to consider the representations of third parties who have raised concern in this regard. Just because the main parties have not provided any meaningful evidence on this matter does not remove the need for me to consider this.

6. In any event, this is a case where I found the scheme to be unacceptable having regard to this issue. Given my findings that the proposal would result in demonstrable harm and conflict with the development plan this is not an application that should obviously have been approved.
7. As a result, this is clearly a case where paragraph 50 of the PPG applies. This indicates that where a local planning authority has refused a planning application for a proposal that is not in accordance with development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application.
8. In consequence, it is concluded that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated and a full award of costs is not justified. I have carefully considered the submitted correspondence between the Appellant and the Council but neither this, nor any other matter, alters my view.

M Evans

INSPECTOR