



Costs Decision

Site Visit made on 5 July 2021

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2022

Costs application in relation to Appeal Ref: APP/J3720/W/21/3274735 Land adjacent to 1 Church Lane, Shotton, Stratford-Upon-Avon CV37 9HQ

- The appeal is made under section 78 of 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 Beeches Properties Ltd against the decision of Stratford-upon-Avon District Council.
 - The appeal was against the refusal of the Council to grant planning permission for the proposed development of derelict garages to be demolished and to provide 3 new dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) states 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 or wasted expense in the associated appeal process. The same guidance makes it clear that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.
3. The applicant asserts that the Council were unreasonable in not considering amended drawings submitted during the application process and failing to notify the applicant of nearby planning permissions that effected the proposed development.
4. The applicant states that the Council did not consider the amended plans submitted by it during the application stage. However, whilst Paragraph 38 of the National Planning Policy Framework (the Framework) states that Councils should “work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”, this does not mean that the Council is obliged to accept amended plans during a planning application. Additionally, I note that the Council did offer the applicant an opportunity to amend plans, and these were submitted and considered by the Council. The Council confirmed to the applicant that it would only review one set of amended plans and that the third set of submitted plans were not considered or consulted upon.
5. The appropriate time for the applicant to have sought to discuss the proposal with the Council would have been at the pre-application stage. Whilst I note that pre-application discussions did take place, this does not mean that the

Council was obliged to continue those discussions once an application had been submitted.

6. This is further reinforced by the PPG¹ which states that while it is possible for both the applicant and Council to suggest changes to an application before it has been determined, it is at the discretion of the Council as to whether to accept such changes or determine whether the proposed changes are so significant as to materially alter the proposal such that a new application should be submitted. The Council is not therefore under any obligation to accept amended plans during a planning application.
7. In my view, in entering into initial discussions with the applicant and allowing a set of amended plans to be submitted the Council complied adhered to its duty to proactively engage and discuss the proposal. The fact that the Council did not consider that these amendments were acceptable did not automatically allow the applicant a further opportunity to submit additional plans. I am therefore satisfied that the Council did not behave unreasonably in not accepting the additional amended plans.
8. With regards to the perceived failure of the Council to notify the applicant regarding nearby recent planning permissions which affected the design of the proposed development and necessitated additional drawings. This would be a matter to raise with the Council. Additionally, the submission details that the most recent permission was granted in December 2019 some 6 months prior to the submission of the application and would have been available to view on the Council's website, as per the first application which the applicant viewed online.
9. Nevertheless, concerns were raised by the Council and even when amended the plans were not considered to be acceptable. The plans required amending for the purposes of the application and therefore no additional expense as a result of the appeal was incurred.
10. Whilst I appreciate the outcome of the application will have been a disappointment to the appellants, the Council were not unreasonable in coming to that decision from the information they had available to them. The concerns raised in the reason for refusal are apparent in the delegated report which adequately sets out how the proposal, in the Council's opinion, would conflict with relevant adopted planning policies. Accordingly, I am satisfied that the Council's determination of the application and reasoning were credible and it was entitled to reach the decision it did.
11. I find nothing to suggest that a decision was reached other than on the basis of the merits of the proposal, as submitted by the applicant. I also find no evidence that the applicant incurred any additional expense as a result of this.
12. Accordingly, I do not find that the Council behaved unreasonably in their processing of the application and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposal which justified its decision and were within their rights to not consider amended plans.

¹ Paragraph: 061 Reference ID: 14-061-2040306

Conclusion

13. For the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Tamsin Law

INSPECTOR