



Costs Decision

Site visit made on 1 February 2022

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 23 March 2022

Costs application in relation to Appeal Ref: APP/W1850/W/21/3281287 Riverview Flats, Wye Street, Ross-on-Wye HR9 7BY

- 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 Denver Rollings (of D. P. Rollings Ltd) for a full award of costs against Herefordshire Council.
 - The appeal was against the refusal of planning permission for the conversion of and extension to the existing Riverview Flats building to form 6no. 2-bed apartments with new end staircores and additional storey above.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) makes it clear that parties in planning appeals normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process. 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 applicant submits that the Council acted unreasonably by significantly changing their position, on the character and appearance impacts of the development, between the pre-application advice and the subsequent planning application.
4. Although I note that the pre-application advice¹ states that the principle of front facing gables and a contemporary design would not necessarily be unacceptable, it is clear that further work to the scheme was also recommended. Such works included changes to the appearance of the proposal and elevational studies with regard, in part, to the development's relationship with the heritage context. I therefore find that the Council's position was not wholly supportive of the scheme. Moreover, pre-application advice cannot prejudice the formal assessment of a proposal under a planning application, or the decision reached. Although I have been mindful of the example of the award of costs raised by the applicant², as the advice here was not wholly supportive, I find that the circumstances are different. Therefore, whilst it is

¹ Reference: 200569

² Reference: APP/P0240/W/18/3210480

unhelpful that the Council changed their position, I do not find that the change was so significant as to be unreasonable.

5. It has been suggested that this change of position stemmed from differences in professional opinion between Heritage Officers however, I have not been provided with sufficient evidence to substantiate this. Furthermore, the Council's committee report includes Historic England's comments and so I have no reason to believe that their comments were not taken into account.
6. The proposal was also refused on two other matters, namely the living conditions of neighbouring occupiers and the effect on protected species. Although I have found with the applicant on both of these matters, I find that all of the reasons for refusal were nonetheless fully justified and supported with reference to both local and national policy. As such, I find that the applicant's costs associated with the appeal were a necessary part of the process.

Decision

7. In light of the foregoing, I find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. I find that an award of costs would not be justified in this case.

Samuel Watson

INSPECTOR