



Costs Decision

Site visit made on 21 March 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 May 2022

Costs application in relation to Appeal Ref: APP/K0425/W/21/3284338 193 West Wycombe Road, High Wycombe, Buckinghamshire HP12 3AW

- 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 Sheraton Dwellings Ltd for a full award of costs against Buckinghamshire Council - West Area (Wycombe).
 - The appeal was against a refusal to grant planning permission for 'Construction of three storey side extension to existing HMO for provision of 10 x additional letting rooms and associated external works'.
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Decision

1. The application for a full award of costs is refused.
2. However, a partial award of costs is allowed in the terms set out below.

Reasons

3. The 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. The PPG provides that local planning authorities (LPAs) are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include where an LPA has failed to produce evidence to substantiate each reason for refusal on appeal or has made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. A 2013 application for a more comprehensive development which included the appeal site¹ was not implemented. That particular proposal would have been considered against the site circumstances at that time and a previous development plan. Therefore, I do not consider that the Council was unreasonable in not comparing the scale and design of the proposal with the elapsed planning permission. I also accept that an assessment of the effect of a proposal on the character and appearance of an area is to an extent a subjective matter.
5. However, I concur with the applicant that the Council's delegated report lacks any detailed analysis of the scheme and how it would relate to the host building and the surrounding context. The Council has had the opportunity to respond to the appellant's statement of case and to elaborate on why it considers there would be harm to the character and appearance of the area. However, the Council's appeal statement reiterates the vague assertions made in the

¹ LPA Ref 13/07011/OUT

delegated report and no detailed reasoning or assessment has been provided. In this particular regard, I find that the Council has failed to substantiate its first reason for refusal with any objective analysis.

6. I acknowledge that the Government's 'Manual for Streets' is guidance. Even so, the Highway Authority set out its specific concerns relating to parking and access issues within the representations made during the application process and these were appended to the Council's delegated report. As part of the appeal, further evidence has been provided by the Highway Authority having regard to the precise location of the appeal site, the identified access and parking constraints and local circumstances including parking stress and accident data evidence.
7. The applicant has not countered the Council's highway safety and parking concerns with any detailed analysis of their own, for example in the form of annotated visibility splays, speed surveys or parking surveys. The previously expired planning permission on the site does not represent a fall-back position on which to compare levels of activity on the access nor does it take into account existing site circumstances or up-to-date evidence. Overall, the Council's concerns in respect of the second and third reasons for refusal were not unfounded and have been substantiated.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated in respect of the Council's first reason for refusal on its decision notice relating to matters of character and appearance. For that reason, a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Buckinghamshire Council – West Area (Wycombe) shall pay to Sheraton Dwellings Ltd, the partial costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the Council's first refusal reason relating to character and appearance; such costs to be assessed in the Senior Courts Costs Office if not agreed.
7. The applicant is now invited to submit to Buckinghamshire Council – West Area (Wycombe), to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Russell

INSPECTOR