



Costs Decision

Site visit made on 12 April 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2022

Costs application in relation to Appeal Ref: APP/RT0660/W/21/3284009 Brook Lane Chapel, Brook Lane, Alderley Edge SK9 7RU

- 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 James Tipler (Tapia Limited) for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for the sub-division of existing single dwelling to create four dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance (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 or wasted expense in the appeal process.
3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it prevents development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations, fails to produce evidence to substantiate each reason for refusal, makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, or refuses planning permission on a planning ground capable of being dealt with by condition.
4. The basis of the applicant's claim for costs is that the Council's planning committee failed to provide any substantive justification for the single reason for refusal which related to the amount of private amenity space proposed, and that the planning committee failed to undertake a site visit. Additionally, the part of the reason for refusal relating to cycle storage could have been appropriately dealt with by planning condition.
5. The evidence before me in the appeal indicates that the local planning authority decided to refuse the application contrary to the initial advice of their professional officers. Whilst local planning authorities are not bound to accept the recommendations of their officers, it is still necessary for an appropriate case to be made for the contrary view.

6. As detailed in the accompanying appeal, where the conversion of an existing building to residential use is proposed, the relevant planning policies do not stipulate a specific or minimum amount of private amenity space that should be provided. As a result, it is a matter of judgment for the decision maker as to whether the amount of private amenity space proposed is sufficient to provide a satisfactory level of amenity for future occupiers.
7. Whilst the case officer concluded that the appeal scheme would secure a satisfactory standard of amenity for future occupiers, the Council's planning committee came to the alternative view. Although I do not share this view, given the relatively modest amount of private amenity space proposed and the lack of any specific or minimum standards within the relevant policies, I do not consider the planning committee's judgment that the proposal would be contrary to the development plan and would fail to provide sufficient private amenity space to amount to unreasonable behaviour.
8. The applicant further alleges that as the planning committee had not undertaken a site visit, they had been unable to base their decision on any reasonable subjective assessment. However, given that the sole reason for refusal related to the physical amount of private amenity space proposed and that the planning application contained detailed drawings and information clearly identifying the type and amount of private amenity space for each proposed unit, I am satisfied that the committee would have been able to undertake an objective analysis without the need to visit the site.
9. It is apparent from the plans initially submitted to the Council that no provision had been made for safe and secure cycle storage at the residential units, in conflict with the Alderley Edge Neighbourhood Plan. I note from the proposed conditions which accompanied the case officers report to planning committee included condition 10, which proposed the submission of details for cycle parking. I therefore share the applicant's view that this particular element could have been dealt with by planning condition.
10. However, notwithstanding the above, the inclusion of such a condition would not have overcome the Council's concerns regarding the amount of private amenity space afforded to future occupiers, and therefore would not have resulted in the application being approved and an appeal avoided. Furthermore, the amended plan latterly submitted showing the location of the proposed cycle storage boxes would have been required in any case for any subsequent application for the approval of details reserved by conditions. Accordingly, I do not consider that the applicant has incurred unnecessary or wasted expense in relation to this matter.
11. Given my findings above I consider that the applicant's time and expense in defending the appeal were a necessary part of the process. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated. As a result, I find that the cost application should be refused.

David Jones

INSPECTOR