



Costs Decision

Hearing Held on 4 October 2022

Site visit made on 4 October 2022

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2022

Costs application in relation to Appeal Ref: APP/C3105/W/22/3295704 The Pheasant Pluckers Inn, Street through Burdrop, Banbury OX15 5RQ

- 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 Geoffrey Richard Noquet for a full award of costs against Cherwell District Council.
 - The appeal was against the refusal of planning permission to re-position and amend the structure of the previously allowed 3 bedroom building.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Paragraph 30 of the national Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Applicant submits that the Council has acted unreasonably by refusing planning permission for their development due to influences from outside sources, failure to co-operate with them and poor planning judgement.
4. An earlier approval for a holiday let has been implemented at the site. The Applicant's description of the proposal seeks to 're-position and amend' the previously approved building. The Council were not unreasonable to come to the view that as no mechanism was provided by the Applicant to formally discontinue works, that the effect of two buildings in this location should be assessed.
5. They are not under any obligation to advise the Applicant how to formally seek a mechanism to discontinue these works. I note no pre-application between the parties occurred where this could have been reasonably aired.
6. I am aware of the upheld letter of complaint the Applicant received from the Council regarding communication barriers between the Council case officer and the Applicant. It is good practice for the Council to engage with the Applicant in negotiations through the planning process to seek amendments, if at all possible. However, this is not an obligation on their part and does not amount to unreasonable behaviour. Should negotiations between the parties have

- occurred, this may not have avoided the particular appeal route the Applicant has sought to pursue.
7. Even though I am aware the Council's Conservation Officer did not undertake a visit to the site, they provided informed comments on the scheme based on the information before them and their professional heritage knowledge. This was fed into the Council case officer's report who reached a detailed decision on the matter.
 8. It makes clear the reasons why the proposal does not meet policy requirements due to a combination of factors. I too have found that the impact of two buildings on the gap would result in an unacceptable effect by reducing this important gap that offers through views to the Sibford Valley. In addition, I agree that the proposal as presented for a holiday let would not amount to sympathetic development within this sensitive conservation area (CA). The Council were not unreasonable in my view.
 9. The Applicant raised the matter of benefits of the scheme as part of their planning proposal. In a scheme as this within a CA, the public benefits must be balanced against any harm as per the guidance within the National Planning Policy Framework. The Council in their appeal statement reply to some of the benefits raised by the Applicant although the balancing of these is absent within the original planning report. Nevertheless, I do not find it to amount to what I would consider to be unreasonable behaviour.
 10. The Council have formed a view regarding parking along the grass verge would not preserve or enhance the character or appearance of the CA and this is included as a reason for refusal. Confusingly, the plans submitted with the application illustrate parking within the grass verge although the Applicant confirmed parking on this verge was not intended to form part of their overall scheme.
 11. The Council have imposed no measures to prevent parking on these grass verges which could occur irrespective of whether or not the proposed holiday let was in place. All things considered, this has been a small component in the overall scheme, and would not have avoided an appeal situation given the Council's first reason for refusal.
 12. There has been opposition to the proposal from local residents and beyond the local area. The Council is obliged to consider all material matters raised by third parties, irrespective of where individuals live.
 13. Issues of influencing Council members and bias are not within my jurisdiction to comment upon and should be raised directly with the Council. Should the nature of comments received to the proposal or the effect of the experience of undertaking the planning submission have a bearing on the Applicant's health and wellbeing, this too should be raised with the Council as a matter of concern. It does not form part of the merits of the appeal before me however.
 14. I appreciate the Applicant is frustrated by the planning process and the service they have received. Most of this is a matter between the Council and them. I must consider the merits of the case only. To this end, none of the types of behaviour which may give rise to a substantive award under the PPG have been established, based on the above. I conclude that no unreasonable

behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated.

Alison Scott

INSPECTOR