
Costs Decision

Site visit made on 10 October 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2022

Costs application in relation to Appeal Ref: APP/L1765/W/21/3289127 Shedfield Equestrian Centre, Botley Road , Shedfield SO32 2HN

- 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 Shedfield Equestrian for a full award of costs against Winchester City Council.
 - The appeal was against the refusal of planning permission for development for the construction of a first floor extension to the existing equestrian shop.
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Decision

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

Preliminary Matter

2. As part of the application for costs, the appellant has referred me to the relevant Council planning committee meeting. In its appeal statement the Council provided a hyperlink to a recording of this meeting. I have not listened to the recording or taken it into account in determining this costs application for the same reasons as set out in my appeal decision.

Reasons

3. 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.
4. I appreciate that the applicant was perturbed by how long it took the Council to determine the planning application, by the way in which the Council's Planning Committee considered it and by the manner in which members reached their decision. However, the Council made the decision that it did. In essence, the costs application is that it was unreasonable for members to reject the officer recommendation to grant planning permission, subject to conditions, and then to refuse the application for the reason that they did, which has not been substantiated at appeal. Furthermore, that unnecessary or avoidable delay may have resulted in potential expense related to the upkeep of the appeal building.
5. The Council was given the opportunity to comment on the costs application. I have taken comments received into account in my decision.
6. PPG states that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs.

7. Members had the benefit of a detailed officer report and an update sheet. They were also advised orally at the meeting by officers and heard submissions from objectors and a representative of the applicant. Members asked questions and engaged in debate. I am not, therefore, persuaded that some members may have simply or deliberately ignored other members' views or officer advice, were unduly distracted by peripheral issues or indulged objectors.
8. Having refused the application, it is not unusual or uncommon for members to debate widely or at length in order to reconcile an agreed reason for refusal. Even with assistance from officers this process can appear vague or abstract. Moreover, it is not surprising that the member driven reason for refusal contradicts passages of the officer report. I am satisfied that the Council properly exercised its development management responsibilities.
9. The Council has submitted a statement at appeal stage. While it largely relies on the minutes of the planning committee meeting it is entitled to do so. It has substantiated the reason for refusal eventually settled on by members, which relates to matters of acknowledged planning interest and refers to a relevant development plan policy. It also responded to the applicant's appeal statement.
10. I acknowledge that in its appeal case the applicant has explained why it did not agree with the Council's decision to refuse planning permission, including how it considered the development complied with relevant local and national planning policy. However, the applicant's main grievance is fundamentally a difference of planning judgement. My appeal decision reconciles this difference.
11. While I have reached different conclusions to the Council's planning committee, my appeal decision should not be taken as vindication of the costs application. Members were entitled to make the planning judgement that they did on the question of character and appearance of the streetscene, with due regard to the officer recommendation, based on the information before them which I consider was adequate for that purpose.
12. There is no reasonable expectation that planning permission will be granted by the Council or by an Inspector. Nor is the timing of such a decision certain. The reasons why the Council's decision took as long as it did are not clear, though the applicant agreed to an extension of time and the committee process almost inevitably takes longer. Planned or necessary maintenance of the appeal building meantime, and the timing or costs of such works, is therefore largely an incidental consequence and ultimately a matter for the applicant.
13. These circumstances have led the applicant to decide to pursue the matter through the appeal process. The PPG sets out that parties in planning appeals normally meet their own expenses.

Conclusion

14. For the reasons given above, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense in the appeal process, as described in PPG, has not been demonstrated. A full award of costs is not therefore justified, nor is a partial award for the same reasons.

Robin Buchanan

INSPECTOR