
Costs Decision

Hearing Held on 18 April 2023

Site visit made on 18 April 2023

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th May 2023

Costs application in relation to Appeal Ref: APP/C3105/W/22/3309064 Waverley House, Queens Avenue, Bicester OX26 2PY

- 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 Gupta of GG Oxford Investments Ltd for a partial award of costs against Cherwell District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for demolition of existing building and construction of 48no. apartments, together with landscaping, car parking, bin stores, secure cycle parking and associated infrastructure.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. The appellant considered the Local Planning Authority (LPA) was unreasonable and the refusal was unnecessary. Whilst accepting the LPA's Planning Committee could go against the advice of its professional officers, the appellant considered that the Planning Committee in reaching its overall decision did not fully take into the account a number of relevant issues and matters. These include, firstly, the changes to the design of the appeal scheme in response to the pre-application advice received by the appellant. Secondly, the Local Highway Authority (LHA) support and the changes made to the visitor parking arrangements in response to the comments received from the LHA. Finally, despite the Conservation officer objections on heritage grounds, the arguments that weighed in favour of the loss of the non-designated heritage asset and locally listed building on the site, including the benefits and the fallback position recognised by the officers where the building could be demolished under permitted development through the prior approval process.
4. The officer's Planning Committee report demonstrate the LPA's view and technical assessment of fact and degree of the effects on the main issues relating to the proposed development, including all relevant issues and matters, including in relation to the changes to the design and parking, and the arguments relating to the loss of the non-designated heritage asset using the evidence submitted by the appellant, the advice from the statutory consultees,

third party representations and the LPA's observations. It clearly sets out the recommendations for approval by the officer.

5. However, this is a matter of planning judgement, and the Planning Committee Members are not bound by the officer's recommendations and professional advice in making their final decision. In this instance, a case was made by the LPA's Planning Committee that the proposal was unacceptable based all the relevant issues and matters, including those highlighted by the appellant in their cost application, and the reasons for refusal set out in the decision are complete, precise, specific and relevant to the application.
6. The reasons for refusal clearly state the policies of the Cherwell Local Plan 2011-2031 (July 2015) and the Cherwell Local Plan 1996 together with the guidance from the Cherwell Residential Design Guide 2018 that the proposal would be in conflict with. In addition, the reasons for refusal clearly state the relevant sections and paragraphs of the National Planning Policy Framework that the proposal would be in conflict with.
7. The LPA's submission and supporting evidence clearly shows that the Council actively engaged with the appellant during the application process and carried out their duty to assess the development proposal as submitted.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour by the LPA resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not justified.

David Troy

INSPECTOR