



Costs Decision

Site visit made on 18 July 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Costs application in relation to Appeal Ref: APP/C1950/W/22/3311392 61 Moffats Lane, Brookmans Park, Hertfordshire AL9 7RT

- 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 Theo Orphanides for a full award of costs against Welwyn Hatfield Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of existing bungalow. New 4-bedroom detached bungalow.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The Appellant contends that the Council has behaved unreasonably both procedurally and substantively and is seeking a full award of costs for the following reasons:
 - Lack of judgement and understanding as to the context of the area and the extant permission;
 - The proposal complied with local and national policy and that sustainable and good design were irrationally ignored;
 - Amendments negotiated;
 - The heritage representative and senior planning officer did not visit the site; and
 - Delays in the planning process.
4. The Appellant alleges that the Council have failed to assess the proposal in the context of the area and with the extant permission. The report by the Officer references the extant permission and provides an analysis of the proposal against the relevant local and national planning policies, giving clear reasoning for their decision. The Officer set out how they considered the scheme to materially differ from the extant permission.
5. It must be acknowledged that any assessment of harm to the character and appearance of the area is subjective. The Council found that the harm to the character and appearance of the area, and the setting and significance of

designated heritage asset provided a clear reason for refusing the application. The Council has reached an alternative view on the acceptability of the scheme to the case presented to them. That is not unreasonable.

6. The Council sought to engage and negotiate with the Appellant during the processing of the application. It is unfortunate that design changes were made, and the proposal was subsequently refused. However, the advice of the Officer is not binding on the Council, and it is not unreasonable for senior officers to come to a different conclusion. Whilst I appreciate that the outcome of the application will have been a disappointment to the Appellant, the Council were not unreasonable in coming to that decision, and indeed following consideration of the application on its own merits alone, I have concurred with the Council.
7. From the evidence before me, the Planning Officer undertook a site visit and took photographs of the site and surrounding area, which were available for other parties involved in the decision-making process to review. The fact that the heritage representative and senior planning officer did not does amount to unreasonable behaviour on the part of the Council.
8. The appellant has also expressed concern regarding the extended length of time taken to make the decision. Whilst this may have caused the Appellant some concern, I understand that the Appellant was kept-informed throughout the processing of the application by the Council. I find no substantive evidence that the appellant incurred any additional expense as a result of this delay.
9. Further to the reasons set out above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and the application for an award of costs must fail.

R Gee

INSPECTOR