



Costs Decision

Site visit made on 12 September 2023

by Gareth W Thomas BSc (Hons) MSc (Dist) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

**Costs application in relation to Appeal Ref: APP/Y3940/W/23/3318624
Wiltshire College, Cocklebury Road, Chippenham SN15 3QD**

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. Essentially, the applicant makes two claims, firstly, that the Council failed to produce robust evidence to substantiate each reason for refusal reason and, secondly, that the Council made vague, generalised or inaccurate assertions about the proposal's impact and in so doing, failed to support their assertions by any objective analysis.
4. The applicant explains that the matter was dealt with by Planning Committee with members going against the advice of their officers who recommended approval of the planning application the subject of the appeal. The applicants explain that the planning application was the subject of an iterative process of negotiation and amendments. In setting aside this process as well as the professional advice of officers, it is alleged that members failed to assess the merits of the case in an objective fashion. It is however an accepted point of procedure that democratically elected members can overturn the recommendation of its officers provided they do so based on valid planning considerations. I note the commentary captured in the minutes to the Planning Committee and it is clear that members were advised of what could constitute valid grounds for refusal. From my analysis of the minutes, members appeared to express their opposition in a clear and cogent manner. It was a decision not taken on a whim.
5. Two grounds were put forward. It is true there was a degree of overlap in those reasons, which stemmed from the likely impacts of the appeal scheme on the significance of the Chippenham Conservation Area (CA). Evidence was presented by the Council's Urban Design Officer and Conservation Officer. However, from what I read, the evidence put forward was robust and convincing. Those officers articulated the views of Committee and eloquently explained what they believed was an unacceptable designed scheme and carefully considered the effect on character and appearance. The Urban Design Officer from all accounts is a registered architect and his views reflected a

detailed understanding of the qualities of the existing Non Designated Heritage Asset (NDHA) and the likely impact of the appeal scheme on the CA. I accept that comparison of the appeal scheme with a previously consented development was made but this was simply to demonstrate those elements of the proposal's design which were thought to be unacceptable. I considered this analysis to be helpful but, in any event, entirely legitimate given the context of the recently lapsed planning permission. Comparison with developments elsewhere were also made to emphasise the alleged deficiencies with the appeal scheme, including the use of local materials and to illustrate how the appeal scheme could have been further improved to meet the original concerns of those specialist officers. They were therefore helpful in assisting an understanding of the concerns of the Council. They did not persuade me to side with the Council and from my decision, it was the design merits of the appeal proposal in the context of a designated conservation area that was the defining issue.

6. Given the above, I cannot identify that the Council has acted unreasonably. Whilst the applicant's substantial evidence was probably prepared in anticipation that the appeal would be dealt with by way of a hearing or public inquiry, the final choice of procedure lay with the Planning Inspectorate. That said, the submission of excellent evidence from both parties enabled me to properly understand the principal arguments for and against and was appreciated by me.
7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and I conclude that an award of costs is not warranted in this case.

Gareth W Thomas

INSPECTOR