



Costs Decision

Hearing held on 5 December 2023

Site visit made on 6 December 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2024

Costs application in relation to Appeal Ref: APP/N0410/W/23/3325579 Former Electron Works, Willow Avenue, Denham, Uxbridge UB9 4BG

- 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 EBS Self-Administered Personal Pension Plan Trustees Ltd for an award of costs against Buckinghamshire Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a new three-storey block of student accommodation comprising 38 studios incorporating communal area, laundry, plant room and refuse store.
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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. In this case, the Council did not determine the planning application. However, the evidence before me includes clear putative reasons that would have been reached had the planning application been determined. It is likely that had a decision been reached, planning permission for the development would have been refused for the stated reasons.
4. Therefore, irrespective of whether the planning application has been determined, the appellant would have needed to have submitted the appeal and prepared documents that responded to the concerns raised by the Council. In result, the fact that the Council did not reach a decision in respect of the planning application is not evidence of unreasonable behaviour that has resulted in wasted expense.
5. The appellant submitted revised plans to the Council, which were not the subject of public consultation. However, it is a matter of judgement as to whether revised drawings address previously expressed concerns and if they should be assessed as part of a revised planning application.
6. Furthermore, even if the plans had been accepted, the Council has explained in their Statement of Case that these plans did not overcome their concerns. In result, had the plans been formally considered by the Council it is unlikely that they would have led to an approval of planning permission.

7. This means that it is doubtful that the proposed development would have gained planning permission via the Council and that the appeal proceedings could have been avoided. In consequence, the appellant would have been required to make an assessment regarding the merits of the revised proposal in the appeal submissions. This means that this is not evidence of unreasonable behaviour by the Council.
8. The appellant suggests that the Council placed an overly large amount of weight upon the advice of the Council's urban designer. However, the amount of weight that should be placed upon the response of a consultee when assessing a proposed development is a matter of professional judgement.
9. In this case, the Council has adequately explained the elements of the proposed development which they considered rendered the scheme unacceptable. Furthermore, I have also been directed towards relevant, adopted, development plan policies that are applicable to the concerns raised by the Council. Whilst I have disagreed with the conclusions reached by the Council, this does not mean that the analysis undertaken is evidence of unreasonable behaviour that has resulted in wasted expense.
10. During the appeal, my attention has been drawn to previous developments that have been granted planning permission either by the Council or at appeal. The views reached by the Council in assessing the appeal scheme before me differed from the conclusions reached in the assessment of the previous proposals.
11. However, the Council explained the reasons why it was considered that these previous proposals were not applicable to the appeal scheme. In addition, this highlighted the differences between the previous developments and the scheme that is the subject of the current appeal proceedings.
12. This is a matter of planning judgement and therefore given the clear explanations that have been provided, the actions of the Council cannot be unreasonable in this regard.

Conclusion

13. I therefore conclude that unreasonable behaviour resulting in wasted or unnecessary expense, as defined by the PPG, has not been demonstrated. Accordingly, an award of costs is not justified.

Benjamin Clarke

INSPECTOR