The Planning Inspectorate

Costs Decision

Site visit made on 9 January 2024

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2024

Costs application in relation to Appeal Ref: APP/L3245/W/23/3323422
Edinburgh House, New Street, Wem, Shropshire SY4 5DB

- 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 Shropshire Council for a partial award of costs against Connexus Homes Ltd.
- The appeal was against the refusal of the Council to grant planning permission for "the proposed demolition of two-thirds of Edinburgh House and change of use to the remainder (the former Police Station element) to create two floors of one and two bedroom apartments (10 apartments in total, across ground and first floors) with second floor remaining as office space (Class E); and construction of 18 new dwellings on land at Edinburgh House, Wem."

Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) sets out that parties in planning appeals are expected to behave reasonably. It goes on to say that where a party has behaved unreasonably, and that unreasonable behaviour has caused unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. The PPG sets out examples of behaviour which may give rise to an award of costs against the Council.

3. Against those examples, the applicant claims that the appellant acted unreasonably by making a costs application in the face of the in-principle objection to the proposal, by pursuing an appeal without sound grounds to do so and on the basis of an untenable case, contrary to the evidence.

4. The exercise, by the applicant of their right to appeal was plainly, on the face of my main decision, not unreasonable. As I have set out, the decision turned on the application of planning judgement. The suggestion by the Council that the proposal was unacceptable in-principle also lends credence to the decision to submit an appeal, rather than make use of any resubmission rights. Whilst there are limited circumstances set out in the PPG in which the making of an appeal could be considered unreasonable, they clearly do not apply here.

5. Similarly, it was open to, and entirely reasonable for the applicant to exercise their right to make an application for an award of costs. The appeal process is simply a part of the development management process, and the costs regime is a part of that.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and a partial award of costs is not warranted. As a result, the application is refused.

S Dean

INSPECTOR