
Costs Decision

Site visit made on 2 April 2024

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 22 April 2024

Costs application in relation to Appeal Ref: APP/L3245/W/23/3328198 Land rear of 2 Spring Cottages, Hook-a-Gate, Shrewsbury, Shropshire

- 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 Graham Gordon for a partial award of costs against Shropshire Council.
 - The appeal was against the decision of the Council to refuse planning permission for the erection of 1No. dwelling following demolition of garage and outbuildings/sheds.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that all parties are expected to behave reasonably to support an efficient and timely process. Where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs irrespective of the outcome of the appeal.
3. The appeal site was subject to a previous planning application, submitted in 2021, for the construction of a single dwelling (Ref: 21/04948/FUL). The Appellant identifies that this previous application was refused for one reason only that related to insufficient information being submitted on highways and access issues. The Council did not identify any reason for the refusal of planning permission of the previous scheme that related to the proposal being out of character with the appearance of the surrounding area.
4. The basis of the Appellant's application for costs relates to two matters. Firstly, in the consideration of the appeal application, the Council introduced an additional reason for the refusal of planning permission that identified that the proposal would result in a cramped form of backland development that would appear at odds and out of character with the appearance of the surrounding area. The Appellant considers that the introduction of this additional reason for the refusal of planning permission was unreasonable particularly as the appeal proposal has some similarities with the scheme previously considered by the Council.
5. Secondly, the Appellant contends that the previous reason for refusal that related to highway grounds has been dealt with in the appeal submission, particularly as the Council's Highways Officer identified that there were no valid reasons to refuse the application on highway grounds. As such, the Appellant

considers that the Council acted unreasonably in identifying that insufficient information had been submitted to confirm that the access meets current highway standards, particularly in circumstances where the Highways Officer was content with the submitted information.

6. Although I do not have full details of the previously refused planning application, the Appellant's Statement includes site plans showing layout comparisons of the appeal proposal and the previous scheme. It is clear that the overall footprint of the proposed dwelling has been slightly reduced from that proposed previously. Whilst I have no evidence of the elevational design of the previous scheme, the Appellant indicates that the appeal proposal would no longer provide for a garage. The frontage of the proposed dwelling now also provides for a significant area of parking and manoeuvring space. As such, there are clear material differences between the previous scheme and the appeal proposal, particularly in relation to its appearance from the access lane and in relation to the extent of parking/manoeuvring areas.
7. The above changes between the two schemes are material and of such significance to suggest that it was entirely reasonable for the Council to consider the appeal proposal afresh against the relevant policies in the development plan. The extent to which the proposed development impacts on the character and appearance of an area is a matter of subjective judgement guided by policies contained within the development plan.
8. In my view, the Council properly considered the proposed development against the relevant policies contained within the Shropshire Council Core Strategy and the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan. It is a matter for the decision maker to consider the effect of new development on the character and appearance of an area and the weight to be attached to this in that decision. Just because I found differently to the Council on this matter does not mean to say that it was wrong in its approach or subjective judgement regarding the consideration of the impact on character and appearance.
9. I have found that the Council had reasonable concerns about the harm to the character and appearance of the surrounding area which justified its decision. Therefore, in my view, the appeal could not have been avoided.
10. Turning now to the second ground for an award of partial costs, it is clear that the Council considered the Access Statement prepared by SLR Consulting Limited (December 2022) in the determination of the application. In this regard, there is a clear difference of opinion between the Council's Planning Officer and Highways Officer regarding the planning status of existing parking on the appeal site and the extent to which the proposed development would intensify the use of the existing access onto Longden Road.
11. The Highways Officer based the consultation response on the basis that the appeal site had an authorised parking use. The Planning Officer was clearly of the view that no evidence had been provided either in the planning application or this appeal to demonstrate that the parking use was authorised.
12. In the determination of the planning application, the Highways Officer is a technical consultee but is not the decision maker. In the absence of any substantive evidence to the contrary, the Planning Officer was entitled to take a view that the appeal site did not have an authorised parking use. As such,

- there was a reasonable basis to assume that the proposed development could intensify the use of the access.
13. The appeal proposals did not provide for any amendments to the junction of the private lane with Longden Road and demonstration that appropriate forward visibility could be achieved and that there was sufficient space to enable two vehicles to pass on the lane in the vicinity of the access junction with the highway. In that regard, the Council was consistent in its view of the suitability of the junction to serve development on the appeal site between the previous scheme and the appeal proposal.
 14. The Council's Planning Officer was entitled to come to a planning judgement regarding the extent to which the appeal site had been used for parking based on the evidence provided in the planning application and the appeal. In my view, the Planning Officer was entitled to come to a reasoned conclusion that the appeal site did not have an authorised parking use and that the proposal would therefore intensify the use of the access.
 15. Again, just because I found differently to the Council on this matter does not mean to say that it was wrong in its approach or judgement regarding the consideration of the impact on highway safety. I have found that the Council had reasonable concerns about the harm to highway safety which justified its decision.
 16. In these circumstances, I have no compelling evidence to suggest that the Council's approach was unreasonable in the consideration of the planning application. The principle of the redevelopment of the site was accepted by the Council but there were clear material considerations that justified its position in determining that planning permission should be refused.
 17. Accordingly, I do not find that the Council failed to properly evaluate the application or failed to properly consider the merits of the scheme. The reasons for the refusal of planning permission were adequately stated by reference to the appropriate policies contained in the development plan that the proposal was in conflict with.
 18. I have found that the Council had reasonable concerns about the harm to the character and appearance of the area and highway safety which justified its decision. As such, I do not find that the Council acted unreasonably in considering the appeal scheme and coming to a reasoned conclusion that planning permission should be refused. Therefore, the appeal could not have been avoided.
 19. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and having regard to all other matters raised, an award of costs is not justified.

Stephen Normington

INSPECTOR