



Costs Decision

Site visit made on 4 July 2024

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2024

Costs application in relation to Appeal Ref: APP/E0345/W/23/3334782 Trinity Hall, South Street, Reading RG1 4QU

- 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 Hardeep Hans of Hanslink Ltd for a partial award of costs against Reading Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing buildings and erection of 22 apartments.
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Decision

1. The application for a partial award of costs is allowed in the terms set out below.

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 Council took considerable time to determine the application subject to this appeal. Costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, although behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded. However, PPG is clear that costs cannot be claimed for the period during the determination of the planning application.
4. The delays would have undoubtedly been very frustrating for the applicant. However, from the evidence before me, there is no indication that the Council would have granted permission had they made their decision sooner. Therefore, the appeal and costs associated with it would not have been avoided.
5. There was correspondence and discussions during the application stage. As such, while these could have taken place sooner, there was an attempt to overcome certain issues. The Council are not bound to provide details of all issues they have with a scheme prior to their decision. While it would have been beneficial to raise all concerns at the earliest time, there is no clear evidence that had the Council done this or consulted with other parties differently that any of the refusal reasons would have been avoided or if they were that this has led to additional costs.
6. The Council have maintained their objections and while a planning obligation has dealt with some issues, one would have been needed in any event. It has

not been shown that the lack of a request for a surface water drainage strategy at the validation stage has led to any additional costs, as one has not been provided subsequently. I do not have full details of schemes nearby to show they are directly comparable.

7. While the decision notice referred to concerns being about trees at the site, it was clear from the officer report, that the applicant was aware of, that these related to a single tree adjacent to the site. The description of the scale of the nearby built form is in part subjective including in how buildings with rooms in the roof space, and the extent to which the 'area' is defined. The wording around the provision of affordable housing did not alter that the report set out what was proposed.
8. The Council have supported their reason for refusal on housing mix with relevant policies and indicated the need for this and affordable housing relates to housing assessments. Although not directly addressing the point of other open space in the area, the Council case is set out for that issue. Sufficient reasoning is also given to explain the issues around living conditions concerning light and trees.
9. I have found in favour of the applicant on some main issues and that conditions could have addressed some of the Council's concerns. However, there was an element of subjectivity as to whether conditions would be appropriate or not. Moreover, that the parties disagree on the interpretation of the policy, or the weight to be given to matters does not demonstrate unreasonableness in itself.
10. A public balance for the effect on nearby listed buildings is required by the National Planning Policy Framework. Nonetheless, there is no clear indication that had the Council amended the wording of the committee report or addressed the public benefits balance more explicitly that this would have led to a different decision.
11. I considered the appeal on all the evidence submitted and my observations on site. That certain visuals within the Council statement may not have been to scale for comparison reasons does not alter my findings or indicate unreasonableness.
12. Notwithstanding this, the Council have failed to support their refusal reasons in relation to air quality and biodiversity. Reference is made to the removal of the tree adjacent to the site. However, it has not been demonstrated what harm this would cause to air quality or biodiversity, in particular given the potential for conditions to be imposed regarding these matters. This is unreasonable and the applicant has incurred unnecessary costs by needing to respond to these issues.
13. PPG states that Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal, for example by complying with the requirements and deadlines of the process. This includes delay in providing information or other failure to adhere to deadlines.
14. The Council did not send the appeal questionnaire to the appellant on time. That it may have been available on their website and was an administrative error does not remove the requirement. The error led to the applicant needing to contact the Inspectorate to clarify. While this may be unreasonable, I am not convinced it has led to any meaningful wasted costs being incurred. There was

also a delay in the Council submitting their appeal statement. However, the appellant was informed of this delay prior to the deadline.

15. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of responding to refusal reasons relating to air quality and biodiversity and a partial award of costs is therefore warranted.

Costs Order

16. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Reading Borough Council shall pay to Mr Hardeep Hans of Hanslink Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to the refusal reasons relating to air quality and biodiversity; such costs to be assessed in the Senior Courts Costs Office if not agreed.
17. The applicant is now invited to submit to Reading Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Stuart Willis

INSPECTOR