The Planning Inspectorate

Costs Decision

Site visit made on 3 September 2024

by C Masters MA (Hons) FRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2024

Costs application in relation to Appeal Ref: APP/Y0435/W/24/3336563
Clare Stables, Vicarage Road, Stony Stratford, Milton Keynes, MK11 1BN

- 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 Nic Fuller for a full award of costs against Milton Keynes Council.
- The appeal was against the refusal of Milton Keynes Council to grant planning permission for change of use from motorcycles sales and repair to offices (use class B1) including alterations to windows and doors and increase in ridge and eaves height without complying with condition 1 attached to planning permission Ref 12/02415/FUL dated 27 August 2013.
- The condition in dispute is No 1 which states that: The approved development shall be carried out in accordance with the following drawings/details 28371-120 as electronically registered on 24 December 2012, 28371-121 as electronically registered on 24 December 2012, 28371-03Rev F as electronically registered on 21 August 2013, 1282/20 Rev C as electronically registered on 19 August 2013, 28371-05 Rev B as electronically registered on 3 July 2013, 28371-01 as electronically registered on 20 December 2012.
- The reason given for the condition is for the avoidance of doubt and in accordance with the requirements of the Town and Country Planning (General Development Procedure) (Amendment No.3) (England) Order 2009.

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. The appellant seeks a full award of costs on the basis that the Council acted unreasonably in refusing the application before them. The appellant alleges that the Council incorrectly referred to original single glazed historic windows within the reason for refusal, that the Council have failed to consider the change as a variation of the original planning permission and that the Council have overstated the harm to the significance of the listed building. I deal with each of these matters in turn.

4. In terms of the reason for refusal, I consider that this is sufficiently precise and clearly worded with reference to a development plan policy. There is no dispute that there is little information provided in relation to the previous windows at the appeal site apart from the photograph provided within the design and access statement which accompanied the original application. The windows and

door details were clearly of concern to the Council given the requirements of the previous condition and I disagree with the appellants assertion that this represents an arbitrary requirement. The assessment as to the extent to which the windows as installed differ from the approved windows is an assessment which the Council were entitled to undertake given the application before them. Based on the information available before the Council, the fact that the reason for refusal refers to the previous windows at the heritage asset as original glazed historic windows does not in itself mean that the Council acted unreasonably in this regard.

5. In terms of whether the Council failed to consider the change as a variation of the original planning permission, there is no dispute that the application was registered as such. Furthermore, the delegated officers report is clear regarding the context of the application made. Nevertheless, the appellants supporting statements are confusing in relation to the timeframe of events. The heritage impact assessment states that the building was converted into a long term commercial use in 2013. The statement advises that these works brought the building back into full occupation. Conversely, the appellant costs statement states works commenced on site in 2014 and were completed in 2020.

6. Regardless of the context upon which the application was made, the works have clearly been implemented including the change of use and in this sense the public benefits have already accrued. The references within the heritage impact assessment to the windows improving thermal efficiency and reducing heat loss are not supported by any substantive evidence or any form of comparison assessment against the approved window design. As a result, I do not find that the approach taken by the Council to the assessment of the application to be unreasonable. The additional reference to the recently updated Framework contained within the costs application does not alter my view in this regard.

7. Finally, the assessment of the extent of harm to significance involves making a planning judgment. In reaching the decision, the Council have referred to a specific planning policy within the development plan. The Council's delegated officers report clearly acknowledges the location of the appeal site as a listed building as well as being located within the Stony Stratford Conservation Area. Whilst in this instance I have not agreed with the assessment made by Officers, this does not in itself mean that they acted unreasonably resulting in unnecessary and wasted expense.

Conclusion

8. I therefore find that unreasonable behaviour, resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Masters

INSPECTOR