

Costs Decision

Site visit made on 6 August 2024

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2024

Costs application in relation to Appeal Ref: APP/L3245/W/24/3341007 The Eagles Inn, Harley Road, Cressage, Shrewsbury SY5 6DF

- 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 Eagle Mews Ltd for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for development described as: 'Outline application for 4 self-build houses on vacant land adjacent to the former Eagles Inn (all matters reserved). Resubmission of 22/00283/OUT'.
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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. Paragraph 49 of the PPG¹ makes clear that local planning authorities are at risk of an award of costs if they refuse to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
4. The applicant alleges that they engaged positively with the Council for a considerable time prior to the submission of the appeal application and received assurances and encouragement from the Council during this period, only for the Council to renege on these during the consideration of the application. It appears that the Council provided pre-application advice and there was clearly engagement from both parties. I have not been provided with detailed evidence with regard to these discussions which limits my ability to form a judgement on this matter. Nonetheless, whilst pre-application advice and informal discussions are helpful, I would note that the Council is not duty bound by such discussions. Furthermore, there is no statutory duty on the Council to communicate with an applicant during the period that the application is under consideration. I am satisfied that unreasonable behaviour has therefore not been demonstrated.

¹ Reference ID: 16-049-20140306

5. The applicant considers the development plan to be silent on the matter of self-build housing and believes the Council has erred in referencing housing policies in its decision. However, as set out in my Decision, the Council is not required by the legislation to have specific policies for self-build although they are required to have policies that seek to meet the differing housing needs of the area. I found that, in line with other Inspector's Decisions referenced in my Decision, the housing supply policies do allow, amongst other things, single plot developments within areas that the Council consider to be suitable locations. The starting point for considering any application for planning permission is the development plan and the Council has not erred in applying its development plan policies. Unreasonable behaviour has not occurred.
6. I have set out in my Decision that the Council's approach to recording self-build and custom housing is supported by the legislation and the Planning Practice Guidance². On this basis I am therefore satisfied that the Council is meeting its responsibilities. There is no evidence of unreasonable behaviour in this regard.
7. This is an outline scheme with all matters reserved for later consideration. I found that the heritage and planning statement did not provide a detailed assessment of the significance of the listed building, or of the importance of the appeal site to that significance. In this regard, I would note that the onus is principally on an applicant to provide appropriate information in support of their proposal³. I understand that discussions over heritage matters have taken place over some time. However, I do not find the Council's evidence at appeal misleading with regard to this matter and there is no evidence of unreasonable behaviour in this respect.
8. The Council's third reason for refusal related to the lack of information submitted to demonstrate that the proposed access was acceptable, including visibility splays. The Council does not refer to the applicant's evidence within the Officer's Report or the Decision Notice. However, just because a document has not been referred to, it does not mean that it has not been taken into account. Moreover, the documents referred to by the applicant do not include drawn visibility splays. I therefore do not consider that there is any convincing evidence that the Council has not taken the applicant's documents into account and this therefore does not constitute evidence of unreasonable behaviour.
9. With regard to the effect on the setting of the listed building, I am satisfied that the Council has taken into account the great weight to be attributed to the conservation of heritage assets, given that they have refused the planning application partly on the basis of the harm to its special interest and significance.

Conclusion

10. For the above reasons I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Paul Martinson

INSPECTOR

² 038 Reference ID: 57-038-20210508.

³ section 62(3) of the Town and Country Planning Act 1990 (as amended).