

Costs Decision

Site visit made on 17 September 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2024

Costs application in relation to Appeal Ref: APP/C1570/W/23/3331041 The Chequers, Cambridge Road, Ugley CM22 6HZ

- 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 Plan Building for a full award of costs against Uttlesford District Council.
 - The appeal was against the refusal of planning permission for the erection of 9 no. dwellings, renovation of public house and renovation and extension of existing dwelling.
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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. The applicant is seeking a full award of costs and highlights substantive and procedural issues. It is alleged that the Council acted unreasonably by refusing the application following a prolonged period of communication with the case officer during which it was indicated that the planning application would be approved. It is also indicated that no site visit was made by the team leader who was the determining officer. In addition, the applicant indicates that they were not provided the opportunity to discuss the refusal before it was issued, despite having agreed several extensions of time requests by the Council.
4. The Council's pre application advice for a scheme of ten dwellings at the same site suggested that such a proposal may be acceptable. However, the PPG is clear that such advice is not binding and does not pre-empt a particular outcome¹. It is not disputed that there had been ongoing discussions between the applicant and the case officer, during which the Council contend that it was not confirmed that permission would be forthcoming, rather the case officer would make a recommendation for approval that would be reviewed by the planning management team. The correspondence with the Council, provided by the appellant, refers to recommended conditions and a positive recommendation rather than explicitly stating that the decision would be approved. As such, there is no clear evidence to demonstrate that the applicant was misled in this regard.
5. The Council refused the application because in their view it was contrary to the provisions of the development plan and provided reasons for this, clearly

¹ Paragraph: 011 Reference ID: 20-011-20140306 Revision date: 06 03 2014

demonstrating on planning grounds why the proposal would be unacceptable. While I have come to a different conclusion, there is no clear evidence before me to demonstrate that the Council's decision counter to previous pre-application advice and any discussions between the case officer and the applicant was fundamentally unreasonable behaviour.

6. The applicant may disagree with certain matters raised by the Council, and notwithstanding that their appeal submissions are brief, it seems to me that regard was had to the main issues, including the heritage benefits of the proposal. Even if the determining officer did not undertake a site visit, the case officer did. While I have come to a different view, a substantiated and reasonable assessment of the site was provided within the officer report. In doing so the Council has demonstrated an analysis of the appeal site context, and the interpretation of local policy was not irrational. Moreover, the officer report took into account the enabling development for the renovation of the listed building in their heritage balance, even if the Council's heritage consultant did not. Therefore, a reasonable exercise of planning judgement was demonstrated in the conclusions reached on the scheme.
7. The applicant has also suggested that the Council did not approach the application in a positive way by not providing an opportunity to address matters prior to the decision notice being issued. The Council have explained that because in their view significant changes would have been required to overcome their concerns, an opportunity to discuss the refusal was not offered. Although this would have been beneficial to have been communicated to the applicant prior to the issue of the decision, this in itself does not result in unreasonable behaviour.
8. I appreciate the applicant's frustrations with the time taken to determine the application, particularly given their agreement to multiple extensions of time. However, while the delays were unfortunate, the Council did generally maintain a dialogue during the application stage and in some cases the delays were as a result of consultee comments and unresolved issues that required further information. This brings me to conclude that no unreasonable behaviour occurred in this regard.

Conclusion

9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and I therefore conclude that the application for an award of costs is refused.

F Harrison

INSPECTOR