



Costs Decision

Hearing held on 17 October 2024

Site visit made on 17 October 2024

by C Rafferty LLB(Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20 January 2025

Costs application in relation to Appeal Ref: Appeal Ref: APP/J0350/W/24/3346602 39-41 Elmshott Lane, Cippenham, Slough, SL1 5QU

- 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 Throgmorton Developments Limited for a full award of costs against Slough Borough Council.
 - The appeal was against the refusal to grant planning permission for the demolition of the existing ground floor commercial buildings and construction of a part 3, part 4 storey building to provide commercial floorspace (Class E) on the ground floor and residential units to the rear ground floor and above (comprising a mix of 1-bedroom, 2-bedroom and 3-bedroom units) with ancillary cycle storage, refuse storage and landscaping
-

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 asserts that the Council has acted unreasonably in this case in two main capacities, being: the failure to accurately apply the presumption in favour of sustainable development; and the failure to substantiate a reason for refusal.
4. In setting out its position, the applicant refers to the Council's housing land supply and the housing delivery test figures. It sets out that as a result of these, the Council is unable to demonstrate the requisite housing land supply and as such paragraph 11(d) of the Framework is engaged. However, the applicant considers that the Council failed to properly consider the housing land supply and housing delivery test when considering the planning balance and did not reasonably consider the benefits of the provision of housing in this regard.
5. A copy of the agenda document for the planning committee has been provided. This acknowledges that the Council cannot demonstrate a five year housing land supply, and that the Council has a shortfall against its housing delivery target. It further notes the housing to be delivered by the proposal, in addition to other benefits of the scheme.
6. The Council's Statement of Case is then clear that, despite the recommendation at officer level, committee members considered that the adverse impacts of the

development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. While the Statement of Case itself may provide limited detail beyond this, given the information before the committee members at the time, there is nothing substantive before me to suggest that they failed to properly consider the housing land supply and housing delivery test when considering the planning balance, or did not reasonably consider the benefits of the provision of housing in this regard. While it can be seen from my decision that I do not agree with the conclusions of the committee members, I do not find that they acted unreasonably in their determination.

7. I note the applicant's submissions regarding the age of the Council's local plan documents and that they pre-date the publication of the National Planning Policy Framework. However, this alone does not result in such policies being out of date. In any event, it remains that, due to the housing position, paragraph 11(d) of the Framework was engaged in this case and, as outlined above, I do not consider that the Council acted unreasonably in their application of this.
8. With regard to the purported failure to substantiate a reason for refusal, I acknowledge the positions of the planning officers and highway authority. Nevertheless, it remains that members of planning committees are entitled to make decisions that are contrary to the officer recommendations that they receive, provided this is clearly demonstrated on planning grounds.
9. The applicant refers largely to highway safety and parking provision in its costs application. It alleges that anecdotal statements of members of the public were considered instead of the professional advice and technical evidence provided. However, even if this were to be the case, the proposal was also refused on other grounds. The evidence before me shows that the committee members exercised planning judgement in this regard, and found harm based on planning grounds. The reasons for refusal were ultimately clearly articulated in the Decision Notice, substantiated with reference to policy conflict.
10. While it can be seen from my decision that I have taken a different position, the reasons for refusal were complete, precise, specific, and relevant to the application. I do not find that the Council failed to substantiate its reasons for refusal, or acted unreasonably in this regard.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Rafferty

INSPECTOR