



Costs Decision

Hearing held on 3 December 2024

Site visit made on 4 December 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Costs application in relation to Appeal Ref: APP/N0410/W/24/3347094 Wilton Park, Defence School of Languages, Gorell Road, Beaconsfield HP9 2RP

- 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 Bewley Homes PLC for a full award of costs against Buckinghamshire Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an approval of details pursuant to condition No.02 of a planning permission Ref P17/01763/OUT granted on 20 September 2019, for Phase 3 (part), comprising 37 dwellings, landscaping, access within the site and car parking. The details for which approval is sought are: access within the site, appearance, landscaping, layout and scale.
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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. The applicant considers that the Council acted unreasonably in several ways and that, as they have had no choice but to submit the appeal, unnecessary costs have been incurred.
3. It is evident from the appeal documents and my observations during my site visit that elements of the development nearing completion in Phases 1 and 2 depart from the Wilton Park Design Code (WPDC). Such variations include the location of open space/play space and the height of some of the buildings and are not dissimilar to those identified on the scheme before me. Crucially, however, these variations were agreed by the Council when determining the reserved matters application¹ for these phases.
4. It is the Council's position that any additions or variations to the approved WPDC should be by way of an amendment to it, not through piecemeal departures from it via reserved matters submissions. Despite this, aside from the additional appendices required by another condition imposed on the outline planning permission, the WPDC has not been amended, revised or updated since it was approved in September 2019. This has resulted in the applicant believing the Council could and would adopt a similar approach as on Phases 1 and 2 when

¹ Reserved Matters approval Ref: PL/20/1718/DE, dated 17 February 2021

determining the appeal scheme. This may have been the case had the Council considered the variations between the appeal scheme and the WPDC as outlined in my appeal decision to be acceptable.

5. Nonetheless, the Council has indicated other reasons that would have led to the application being refused. These relate to character and appearance, the living conditions of future occupiers and the integrity of the Burnham Beeches Special Area of Conservation. Therefore, in order for an appeal to be avoided, it would have been necessary for these other concerns to be resolved, including several issues relating to design. Given that design matters are largely subjective, even if the Council met to discuss their concerns with the applicant, it is clear that the Council's position on these matters would not have been altered.
6. The Council did not make a formal decision on the reserved matters application within the prescribed determination period or within the extensions of time. Nonetheless, I have no substantive evidence before me confirming that the extensions of time were not agreed by the applicant. However, the evidence before me indicates that, despite the amount of time taken, the Council did endeavour to work with the applicant and provided feedback on the details of the scheme at various times during this period.
7. Indeed, prior to the applicant lodging the appeal, the Council confirmed via email² that the application was likely to be refused. Even if the applicant was not fully aware that the location of windows in elevations alongside the central footpath link formed a potential reason for refusal, this in and of itself does not represent unreasonable behaviour. The Council's other concerns were set out on the aforementioned email to the applicant.
8. Unreasonable behaviour can include not agreeing a Statement of Common Ground (SoCG) in a timely manner. Although the finalised and signed SoCG was not submitted within the deadline set out in the appeal Start Letter, nevertheless it was provided within the timescale I set in my Pre-Hearing Note. Its submission did not, therefore, unnecessarily delay the appeal or wasted expense, nor do I consider the need for additional time to agree its contents unreasonable given the extent of the details within it.
9. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Juliet Rogers

INSPECTOR

² Email dated 25 April 2024 at 17:53