
Costs Decision

Hearing held on 18 February 2025

Site visit made on 26 February 2025

by **M Woodward BA (Hons) PgDip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th March 2025

Costs application in relation to Appeal Ref: APP/X5210/W/24/3352626

17 York Way, London N7 9QG

- 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 Mendoza Limited for a full award of costs against the Council of the London Borough of Camden.
 - The appeal was against the refusal of planning permission for renovation of the existing public house (sui generis) at ground floor and basement level and redevelopment above to provide seven new homes in four storeys of flatted accommodation (Class C3).
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Decision

1. The application for an award of costs is refused.

Reasons

2. The planning application exceeded the relevant time limit for determination. In addition, the applicant claims that the Council failed to engage with them in a constructive manner during the application process. However, the submitted correspondence indicates that the Council and applicant were attempting to resolve an outstanding viability issue for many months after the statutory time limit for determining the application. This included the submission of further viability evidence by the applicant, in response to the Council's concerns¹ and implies tacit agreement to work proactively in an attempt to secure sustainable development.
3. Despite the applicant's attempts to resolve this issue, the Council refused to consider the applicant's further viability evidence and proceeded to refuse the planning application², with the viability issue remaining unresolved. I understand why the Council's abrupt stance is a source of irritation to the applicant and of itself could be construed as unreasonable behaviour. However, 'viability' was far from being the only outstanding matter, with the main issues³ of design/heritage and climate change mitigation remaining unresolved and pertinent to the Council's reasons for refusal.
4. Therefore, whilst the applicant insists that resolving viability was key, there is no substantive evidence before me to indicate that the applicant had any intention of amending the scheme during the planning application to address the Council's concerns regarding design/heritage and climate change. This is reinforced by the applicant's case at the Hearing, that the proposal adhered to heritage and climate

¹ Appeal Document E.01 – submission was made on 1st May 2024

² They refused to consider the viability evidence from submission on 1st May 2024 until 19th June 2024 when planning application was determined

³ See 'main issues' S78 appeal decision

- change policies, this stance predicated on a scheme which was largely the same as the one the Council made their decision on. Therefore, I do not see how resolving the outstanding viability issues at the planning application stage would have prevented the appeal and any expense incurred during the appeal process.
5. I note that the applicant makes numerous criticisms of the Council's conduct at pre-application stage and during the planning application, including that the Council has been manifestly inaccurate on numerous occasions. However, even if I was to conclude that the Council failed to consider any of the issues in a robust and proper manner prior to the appeal, or stifled the planning application process through making unreasonable requests, to the extent that it amounted to unreasonable behaviour, the PPG requires evidence that any unreasonable behaviour has directly (my emphasis) resulted in unnecessary or wasted expense in the appeal process⁴.
 6. Four of the Council's reasons for refusal were substantially resolved prior to the Hearing, and common ground was reached on viability. That indicates a willingness on both sides to work constructively and proactively to narrow areas of disagreement. The appeal process benefitted from this to the extent that little time was spent on these issues such that they did not form main issues in the appeal.
 7. In relation to the outstanding areas of disagreement relating to the main issues, I am satisfied that the Council exercised reasonable professional judgment in reaching their conclusions on heritage and design matters, even though I disagreed with their appraisal concerning the relative significance of the existing building, along with aspects of their judgment relating to design.
 8. Ultimately, I came to the same overall conclusion, that the proposal would harm the Conservation Area. I also agreed with the Council insofar as the proposal would conflict with policies in relation to climate change. Overall, I found in favour of the Council on these matters and concluded that the scheme was not in accordance with the development plan.
 9. As such, the Council's decision to refuse planning permission did not result in delaying or preventing a case that should clearly have been permitted, and the appeal could not ultimately have been avoided.
 10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

M Woodward

INSPECTOR

⁴ PPG - Paragraph: 030 Reference ID: 16-030-20140306