



Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 19 Ebrill 2022

gan I Stevens BA (Hons) MCD MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 30.05.22

Costs Decision

Site visit made on 19 April 2022

by I Stevens BA (Hons) MCD MRTPI

an Inspector appointed by the Welsh
Ministers

Date: 30.05.22

Costs application in relation to Appeal Ref: CAS-01418-G9M3C9

Site address: Calvary Church, Cliff Terrace, Treforest, Pontypridd, CF37 1RF

<p>The Welsh Ministers have transferred the authority to decide this costs application to me as the appointed Inspector.</p>

- The appeal is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Mr Javid Ahmed for a full award of costs against Rhondda Cynon Taf County Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for conversion of church to 8 apartments.
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Decision

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

Reasons

2. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant states that the Council has behaved unreasonably on procedural and substantive grounds, with reference to examples given in paragraphs 3.10(c), 3.11(a) and 3.11(b) of the Annex.
4. The planning application was submitted in March 2021 and validated in April 2021. The statutory 8-week period expired in June 2021. It is understood that an on-site meeting with the local Member took place in July 2021, following which the application was taken to the Planning and Development Committee in October 2021. While the application was recommended for approval, with officers having concluded that concerns raised in the previous appeal (reference: APP/L6940/A/20/3259900) had been addressed, Members were minded to refuse the application. The application was deferred to the next committee meeting to allow preparation of a report highlighting the strengths and weaknesses of

making a decision contrary to the officer recommendation. However, prior to the meeting an appeal was made against non-determination of the application.

5. The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2015 allows a “dual jurisdiction” period for the local planning authority to continue to determine an application for planning permission during the first 4 weeks of an appeal being made against non-determination. The Council state that the deadline for reporting the matter back to Members had elapsed and they were unable to determine the application during the period of dual jurisdiction. The application was then reported to Members at a committee meeting on 13 January 2022, where it was resolved that planning permission would have been refused contrary to officer recommendation.
6. While I appreciate the applicant’s frustration with the apparent delay between different stages of the process, the Council has provided details of the timescales and explained why the application was taken to committee as opposed to a delegated officer decision. I realise the Council were notified of the appeal having been submitted on the same day. Nevertheless, it is not unreasonable to wait for formal notification of the appeal before proceeding through the dual jurisdiction period. Unfortunately, due to the delay in formal notification the Council’s timescales did not allow for a report to be presented to Members in time. However, I do not see that the Council acted unreasonably during this process, or that the behaviour has led the applicant to incur unnecessary or wasted expense.
7. Turning to the substantive grounds for appeal, the applicant states there was no good reason for the Council to delay or refuse planning permission, referring to the October 2021 committee meeting, adding that no relevant or convincing evidence to support its reasons for refusal.
8. Paragraph 3.8 of the Annex advises that “Where a local planning authority has refused, or proposed to refuse, an application that is not in accordance with relevant development plan policy and no material considerations indicate that permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application”.
9. Members decided to refuse the application contrary to officer recommendation because the proposal would represent overdevelopment of the site, resulting in cramped residential units with a poor standard of living accommodation to the detriment of future residents’ living conditions.
10. Paragraph 3.9 of the Annex advises that “Local Planning Authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers or received from statutory consultees. However, they are expected to show that they had reasonable planning grounds for taking a decision contrary to such advice and that they are able to produce relevant evidence to support their decision. If they fail to do so, costs may be awarded against the authority.”
11. The applicant has explained how the proposal had sought to overcome the reasons for dismissing the previous appeal, through amending the layout of apartment 8 by moving the lounge kitchen room further along the building and away from the proposed car parking structure. While officers agreed that the proposal was acceptable, planning committee Members are entitled to make decisions contrary to the officer recommendation. It is nonetheless important that the reasons for taking a contrary view are clear and comprehensive. In this instance, the Council’s Appeal Statement sets out the reasons for refusal, with reference to the less favourable outlook afforded by the basement flats as part of the conversion of larger properties. The Appeal Statement references the Council’s adopted Supplementary Planning Guidance (SPG): Development

of Flats – Conversions and New Build, approved June 2015. The proposed reason for refusal references relevant Local Development Plan policy. I appreciate there is a degree of subjectivity to assessing the impact of proposals on future residents' living conditions. While my decision differs from that of the Council, having regard to the policy and SPG I do not consider the Council has acted unreasonably in the way it has dealt with the substantive arguments for the proposal and in reaching its decision.

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Annex at Section 12 of the Development Management Manual has not been demonstrated. An award of costs is therefore not justified in this case.

Conclusion

13. The costs application is refused.

I Stevens

Inspector