
Costs Decision

Site visit made on 16 May 2016

by J E Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 October 2016

Costs application in relation to Appeal Ref: APP/D3315/W/16/3145195 Goodwood House, Blackbrook Park Avenue, Taunton TA1 2WR

- 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 Vospers Motorhouse Ltd for a full award of costs against Taunton Deane Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for alterations to Goodwood House to create car dealership and servicing facility.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. Applications for development are to be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy was referred to in the officer's report to committee and the position with regard to the development plan was set out. The committee were also provided with views from the Council's Economic Development Manager (EDM) which set out his comments on the role of the business park within the local economy. The EDM raised objections to the proposal setting out his views on the incompatible nature of the proposal in the context of the business park as a whole and anticipated harm to the business park from the proposed use. Prior to the Planning Committee determining the proposal objections were received from occupiers of other premises in the business park and from local residents.
 4. Authorities are not bound to follow the advice of their officers. In this case the planning officer recommended to the committee that the application be permitted. The Minutes from the committee meeting record only the resolution to refuse the application and the reason for refusal. The EDM's comments are reflected in the reason for refusal. The anticipated impact of the proposed development on the business park and on the local economy were matters on which the Planning Committee made a judgement having been provided with advice from the planning officer and the Council's EDM. The weight which the committee members attributed to the EDM's comments was a matter for their judgement. Given the EDM's role within the Council and the comments provided by him, the Council's decision did not amount to generalised
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assertions unsupported by analysis. It was not unreasonable for the Council to refuse the proposal based on the proposal detracting significantly from the business park in the light of the EDM's comments. The Council's reason for refusal did not cite conflict with the development plan or national policy and I am satisfied on the basis of the evidence that the refusal of the application was made with due regard to other considerations. In this respect the Council did not unreasonably prevent or delay the development.

5. The Council relied in their evidence to the appeal on the views set out by the EDM in the report to committee, whilst providing additional background on the EDM's experience and local knowledge. The evidence the Council presented to support the appeal was not extensive, but it was nevertheless sufficient to substantiate their decision, notwithstanding that the decision was contrary to the advice of the planning officer.
6. The applicant provided evidence relating to marketing as part of the original application documentation. The matter was addressed briefly within the planning officer's report to committee which confirmed marketing had been carried out for an adequate period and without apparent success with regard to securing an office use. Whilst the matter of marketing and lack of interest in the appeal site formed a significant part of the applicant's case, it is addressed only briefly in the Council's statement and the criticism therein is not backed up by any detailed analysis. The extent to which the marketing evidence was a determining factor in the Council's decision is not wholly clear. However, the Council's reason for refusing the proposal does not refer to a failure to adequately market the property.
7. With regard to precedent, although I reached a different view on this matter from the Council, it was not unreasonable for the Council to take the possible impact of the appeal proposals on other sites within the business park into account as part of its determination of the proposal. The suggestion that the proposal may lead to the business park becoming a trading estate lacked substantive evidence but the Council's decision reflects the advice of the Council's EDM. However, the Council's evidence did include reference to concerns relating to a specific vacant site elsewhere on the business park.
8. Overall, although I have concluded differently from the Council in relation to the proposal, I consider the Council put forward a case which was sufficient to justify its position with regard to the reason for refusal.
9. The applicant set out at the stage the appeal was lodged their reasons for seeking a Hearing. The applicant followed appropriate procedures by submitting a draft Statement of Common Ground with the appeal submission. I have found that the Council did not behave unreasonably with regard to the refusal of the application. The preparation of the draft Statement of Common Ground arose due to the applicant seeking the hearing and did not arise from the Council's actions as part of the appeal process.
10. The application as originally submitted was accompanied by drawings and supporting information sufficient for the Council to consider the application and reach a decision. The instruction of various professionals and the scope of evidence submitted with the appeal was a decision for the applicant.
11. It is generally the case that the parties to an appeal are expected to bear their own costs. Whilst the applicant has explained the reasons for supplementing

the information provided to the Council as part of the appeal process, in order for an award of costs to be made it is necessary to demonstrate that the party against which costs are claimed has behaved unreasonably. For the reasons set out above, I find that the Council's determination of the proposal and during the appeal process did not amount to unreasonable behaviour and the appeal could not have been avoided.

12. I have given consideration to whether a partial award of costs would be justified but, for the reasons given above, find that it would not.
13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

J E Tempest

INSPECTOR