
Costs Decision

Site visit made on 26 September 2016

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 1 November 2016

Costs application in relation to Appeal Ref: APP/B5480/W/16/3154069 1-3 Station Road, Harold Wood, Romford, RM3 0BP

- 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 Mr Tony Truesdale for a full award of costs against the Council of the London Borough of Havering.
 - The appeal was against the refusal of planning permission for 3 x retail units and 6 x two bedroom dwellings.
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Decision

1. The application is partially allowed.

Reasons

2. 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's case is that the Council has behaved unreasonably in refusing the application, contrary to the recommendation of its officers to grant permission. In particular that the committee decision is not supported by any objective analysis or factual evidence. Further the applicant submits that, as a consequence, the Council has failed to support its decision and has prevented or delayed development that should have been permitted. The recommendation in the committee report was that planning permission should be granted. In circumstances where officers' professional advice is not followed an authority is expected to produce relevant evidence on appeal to support the decision.
 4. The Council had three reasons for refusal. The first two refer to the effect of the parking arrangement and the living conditions of future occupiers. The assessment of these issues is a matter of judgement. As such the Councillors reaching a difference conclusion to their officers and specialist advisors is not in itself unreasonable, even in cases where they have been advised against such action.
 5. The reasons for refusal are clear and concise in so far as they make reference to the relevant development plan policy. However, the first reason for refusal does contain an error. The Council does not dispute this and its statement accepts this position. The Council submits that in coming to their decision its members understood the parking situation in the locality. This is supported by the committee report.
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6. However the officers report does not refer to the presence or not of CPZ. This is specifically referred to in the committee minutes. In particular that the lack of a CPZ is identified as a reason why parking and congestion issues could not be mitigated.
7. The Council's submitted statement focuses on the complete lack of on site parking provision. However I agree with the applicant that there is no specific evidence that links the lack of parking provision directly with a highway safety issue as set out the reason for refusal.
8. On the matter of living conditions the reason for refusal is clear and concise and makes reference to the relevant development plan policies. I am aware that the applicant considers there is a lack of evidence to support the Council's position and that the density of the development is policy compliant. However, the Council produced a full statement to support its case at appeal. It identified the relevant development plan policies and how the application was assessed against them along with other relevant material considerations. Overall, therefore, even though the members placed weight on different matters to their professional officers, I am satisfied that the Council has supported its decision on this issue.
9. However, overall, in my view the issue of the CPZ, its inclusion in the reason for refusal and lack of objective analysis or factual evidence on this matter amount to unreasonable behaviour. Therefore unnecessary cost has been borne by the applicant in having to address this issue at appeal.
10. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in paragraph 049 of the PPG, has been demonstrated. A partial award of costs is justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the London Borough of Havering shall pay to Mr Tony Truesdale, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in defence of reason for refusal 1; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to the London Borough of Havering to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

D J Board

INSPECTOR