
Costs Decision

Site visit made on 7 November 2016

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 29th November 2016

Costs application in relation to Appeal Ref: APP/C1435/W/16/3155584 58 High Street, Heathfield, East Sussex TN21 8JB

- 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 Michael Bertelsen of Windward Estates Limited for a full award of costs against Wealden District Council.
 - The appeal was against the refusal of the Council to grant planning permission for the conversion of first floor commercial use to five 1 & 2 bedroom flats.
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Decision

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

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 application relies on the fact that Council officers recommended that planning permission be granted for the proposal, but that Council Members took a different view and failed to justify their decision in the course of the appeal. The PPG indicates that local planning authorities will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate their reasons for refusal.
 4. It seems to me that as the district is currently unable to demonstrate a five year land supply, officers were seeking to look favourably on applications for housing development. However, in doing so they appeared to give less weight to the proposal's potentially harmful effects on the vitality and viability of Heathfield town centre. In such cases Members are not bound to follow the professional advice of their officers as the decision is a matter of planning judgment. In refusing the scheme Members were more concerned about the effects on the town centre and they were entitled to give that issue more weight in reaching their decision.
 5. In dismissing the appeal I have concurred with the Members' decision to refuse planning permission on the grounds that the loss of retail space would be harmful to the future viability of the town centre. Whilst I did not find that the proposal would have resulted in unacceptable pressure for parking on the public highway, the Members' concerns were reasonable and adequately explained, bearing in mind the lack of on-site parking for future residents.
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6. Although the statement that supported the Council's decision was not lengthy, in my view it was sufficient to give me a clear understanding of the Members' reasons and adequate evidence to enable me to assess the scheme. It therefore follows that I do not consider that the Council acted unreasonably in refusing the application or that it failed to present sufficient evidence to substantiate its reasons for doing so.
7. If, following the Council's decision, the appellant wished to secure a different outcome, he had no choice other than to pursue the appeal. In so doing he did not, therefore, incur unnecessary or wasted expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Sheila Holden

INSPECTOR