
Costs Decision

Site visit made on 14 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: 5th December 2016

Costs application in relation to Appeal Ref: APP/Z3825/W/16/3155472 Stables, Land to the south of Mill Lane, Littleworth, Partridge Green, West Sussex

- 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 Bayley of Delcraven Ltd for a full award of costs against Horsham District Council.
 - The appeal was against the refusal of the Council to grant planning permission for conversion of a building into a dwelling house.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. The appellant's application for costs centres on two key claims. Firstly, the Council acted unreasonably in refusing an application to convert an existing stable building into a dwelling in a sustainable location. In his view the proposal accorded with the development plan and should have been permitted due to the lack of housing land supply in the district.
 4. Secondly, as a result of a procedural error by the Council, the application was mistakenly advertised as a departure from the development plan, which the appellant believed generated additional hostility to the proposal within the local community. It is the Council's procedure to have applications that are departures determined by the Planning Committee. However, in light of the procedural error the application was determined under delegated powers. The appellant considered that this compounded the procedural error, as it denied him the opportunity to persuade the Committee of the merits of the proposal.
 5. In my view the Council's reasons for refusal were not only clearly set out on the decision notice but were also substantiated within its report on the application and its appeal statement. It determined the application with reference to its recently adopted local plan, the Horsham District Planning Framework (HDPF) and therefore acted reasonably. It can be seen from the appeal decision that although I accepted that the appeal site is in a sustainable location, it did not follow that the proposal would be a sustainable
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development. I concluded that the Council was able to demonstrate a five-year land supply and there were a number of reasons why I found the proposal would be contrary to the HDPF. I therefore concurred with the Council's decision to reject the proposal.

6. The Council has accepted that it made a procedural error in advertising the application as a departure. Whilst the appellant believes that the site notice may have resulted in additional hostility to his proposal, from what I have read it appears that most of the objections were sent to the Council prior to the date that the site notice was posted, which was 14 June. Nevertheless, the appellant agreed to the extension of time to the 28 July, which indicated that the proposal would be considered by the Committee on 19 July. Once the error had been realised, the application was determined on 11 July, just under three weeks after the expiry of the initial 8-week target date. In these circumstances, I do not consider that the Council acted unreasonably.
7. I accept that the error was unfortunate and as a consequence the appellant was not able to make a case for his scheme to the Committee. However, in view of the officer's report and the views expressed by local people, including the Parish Council and the Littleworth Residents Association, it seems highly likely that the scheme would have been refused. Whilst the decision might have been taken earlier if the error had not occurred, there is no evidence that this delay has resulted in the appellant incurring unnecessary or wasted expense.
8. The Council has provided adequate information to support its reasons for refusal in the appeal process and expanded them in a manner which I consider to be appropriate in the circumstances. Both parties drew my attention to appeal decisions which they considered relevant to support their case.
9. Following the Council's refusal of the application the appellant was faced with a choice. If he wanted to secure a different outcome, he could either pursue the appeal or consider the possibility of a different scheme. In deciding to initiate the appeal he did not, therefore, incur unnecessary or wasted expense.

Conclusion

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

Sheila Holden

INSPECTOR