



Costs Decision

Site visit made on 11 July 2017

by J Ayres BA Hons, Solicitor

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

Decision date: 31st July 2017

Costs application in relation to Appeal Ref: APP/Z3825/W/17/3171459 Park House North and North Point, North Street, Sussex RH12 1RL

- 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 North Street Horsham Development LLP for a full award of costs against Horsham District Council.
 - The appeal was against the refusal of planning permission for “‘Infill’ extensions at ground floor level to create 7 no residential apartments, improvement works to exterior of building to include replacement of windows/doors throughout, alterations to existing window/door openings, new window/door openings, replacement of curtain walling panels/windows with infill render panels, external works & construction of new single storey plant room”.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Appellant submits that the Council has acted unreasonably in that it has failed to produce evidence to substantiate each of its reasons for refusal, and has made vague, inaccurate assertions about the proposal’s impact, which are unsupported by objective analysis. The proposal complied with the development plan and should have been permitted and the necessary appeal has caused the appellant delay and unnecessary expense. This constitutes unreasonable behaviour.
3. The National Planning Practice Guidance (PPG) 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 or wasted expense in the appeal process.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal’s impact which are unsupported by any objective analysis.
5. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this case, the planning officers concluded that the proposal would not result in a significant loss of sunlight or daylight to

the occupiers of the neighbouring property, or fail to provide adequate provision in the way of on-site parking for future occupiers.

6. The Council subsequently failed to provide any evidence as to what harm would be caused to the occupiers of the proposal with regards to insufficient levels of daylight and/or sunlight. The Council's evidence stated the contrary view to that stated in the officer report; however the Council did not provide a professional assessment to rebut the appellant's evidence, and failed to substantiate the reason for refusal.
7. In respect of the second reason for refusal, the Council failed to substantiate how the proposal would conflict with the Council's own development plan. The Council's evidence referred to the County Council's parking standards, but did not adequately demonstrate how the proposal would conflict with these standards. Furthermore the Council failed to provide any evidence that the proposal would have a severe impact on transport as required by the Framework.
8. In the planning judgement, it is my view that having regard to the provisions of the development plan, national planning policy and other material considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.

Costs Order

9. 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 Horsham District Council shall pay to North Street Horsham Development LLP, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Horsham District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J Ayres

INSPECTOR