
Costs Decision

Site visit made on 18 July, 2017

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 16th August, 2017

Costs application in relation to Appeal Ref: APP/U1430/W/17/3173796 10 -12 Egerton Road, Bexhill-on-Sea, East Sussex, TN39 3HH

- 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 L Cook for a full award of costs against Rother District Council.
 - The appeal was against the refusal of planning permission for demolition of existing buildings; erection of new building to provide an hotel comprising 5-storeys and basement, Use Class C1.
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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. The applicant's grounds for seeking costs are procedural, and are as follows:
 - that the Council required fully detailed plans notwithstanding his making it clear from the outset that "in principle" permission only was being sought;
 - lack of communication and lack of co-operation in addressing issues raised during the consideration of the application;
 - reliance on issues not previously raised to justify refusal of the proposal; and
 - mis-representation of the proposal to the Planning Committee.
 4. In respect of the first ground, although the Council's e-mail of 15 December, following the pre-application meeting, does not mention the conservation area, it sets out a clear list of the detailed matters that need to be addressed in any subsequent application, including the height of the proposed hotel, its relationship with neighbouring buildings, impact on the street scene and design and appearance. While I accept that the applicant would have preferred to submit only an outline permission, and that the Council was willing to accept the broad principle of the development, it appears to me that as a result of that e-mail he could have been in no doubt as to what was required for his proposal to progress.
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5. Equally, the Council's letter of 18 May, 2016 following submission of the application is clear about the information required for the application to be validated. It appears to me that, following the requirements of Paragraph 128 of the National Planning Policy Framework for proportionate levels of detail relating to proposals affecting a designated heritage asset, the information sought then in relation to the conservation area was necessary whether the application was for outline or full planning permission.
6. It also appears to me from the Council's e-mail of 6 July, 2016 that the Council was prepared to exercise a degree of flexibility about the level of detail sought, while remaining mindful of national and local policy in respect of the handling of an application affecting a conservation area.
7. The second ground appears to be a general one relating to communication between the parties during the progress of the application, although details are not specified. The evidence submitted indicates relatively regular correspondence between the Council and the applicant's agents in the pre-application period and after the submission of the application, and it therefore appears to me that this ground is not substantiated.
8. In relation to the third ground the applicant refers to the issue of foul and surface water drainage being raised in the officer's report as a justification to refuse the application. The shortcomings of the development in relation to this matter are highlighted in the report, following consultee comments from third parties. However, this is not given as a reason for refusal of the application, being referred to only in an informative advising that it is an issue that requires resolution. I do not therefore consider this ground to be upheld.
9. The fourth ground relates to the description of the development in the officer's report as being of seven storeys, when the description given in the application is for five storeys. The applicant contends that this is misleading, an attempt to inflame members' opposition to the development, and prejudicial to the applicant. However, the submitted drawings clearly show a development of five storeys plus a basement storey and roof storey. As is seen in the heading to this decision and to the appeal decision, I have altered the description of development to take account of this. On the basis of this I cannot conclude that the description of the development as a seven storey building is misleading.
10. Consequently, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S J Buckingham

INSPECTOR