
Costs Decision

Site visit made on 24 June 2019

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Costs application in relation to Appeal Ref: APP/C3810/W/19/3219856 Bradlaw House, 5 Sudley Road, Bognor Regis PO21 1EJ

- 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 Kamil Krakowski for a full award of costs against Arun District Council.
 - The appeal was against the refusal of planning permission for change of use from mixed use consisting of Dental Surgery (D1 Non-Residential Institutions), night club (Sui Generis) & part residential (2 No. units existing) (C3 Dwellinghouse) to conversion to 8 No. flats with associated services (6 No. new units). This application may affect the setting of a listed building.
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Decision

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

Reasons

2. Planning Policy 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 evidence provided with the costs application is limited, however taking into account the evidence submitted with the appeal it would seem that the appellant is seeking costs due to the delay on the part of the council in processing the application. The appellant also asserts that the council failed to recognise the pre-application advice it had given, and failed to substantiate its reasons for refusal.
4. The delay in dealing with the application appears to have been explained by the council in its correspondence with the appellant. The appellant appears to seek costs for loss of income for 5 flats. However there is no evidence to substantiate such a loss. Whilst the delay in dealing with the application is regrettable, I find on the basis of the evidence submitted that the council did not behave unreasonably in its handling of the application.
5. In terms of the costs associated with the appeal itself, the informal advice given before an application is made is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all material factors. I have not been provided with a formal record of the pre-application advice, and therefore I have no firm basis to conclude that the

informal advice given was so misleading as to amount to unreasonable behaviour on the part of the council.

6. The Planning Practice Guidance makes it clear that a local planning authority is at risk of an award if it fails to produce evidence to substantiate each reason for refusal. In this case the officer report clearly sets out the conflict with the development plan, and also acknowledges the benefits of the scheme. It recommends refusal, and the reasons for refusal set out in the decision letter are clear and unambiguous. The council subsequently submitted a statement of case elaborating on those reasons and further addressing points made by the appellant. I have agreed with the council that the proposal would be unacceptable, and it follows that I am satisfied that the Council has shown that it was able to substantiate its reasons for refusal.
7. As a result, it follows that I cannot agree that the council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

J Ayres

INSPECTOR