



Costs Decision

Site visit made on 16 July 2019

by Mike Robins MSc BSc(Hons) MRTPI

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

Decision date: 13th September 2019.

Costs application in relation to Appeal Ref: APP/Y9507/W/19/3221987 Red Lion, 3 College Street, Petersfield GU31 4AE

- 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 JD Wetherspoons PLC for a partial award of costs against South Downs National Park Authority.
 - The appeal was against the refusal of planning permission for a two-storey hotel building to accommodate 22no. bedrooms, plus new landscaped garden area including fixed booth seating, 2no. disabled parking spaces, cycle parking and alterations to existing access to facilitate off-street delivery route.
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Decision

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

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 application for costs was made in writing by the appellant claiming that the Council had been unreasonable in their approach to reasons for refusal 2 and 3, in relation to parking and the submission of a legal undertaking. It was argued that the officer report, or sign-off sheet, stated that there was no evening survey, when one had been provided, and that no weight was given to Hampshire County Council's lack of objection to the previous scheme and their acceptance that the surveys showed surplus capacity. Furthermore, the applicant considered that the Council's planning officer had assured them that parking would not be a matter of dispute in any appeal¹, but that position was changed by the Planning Team Manager. With regard to the legal undertaking to address management of the hotel and public house, it was argued that this would be completed subject to a condition and that the Council had agreed to this.
4. The Council responded in writing, noting that they had identified the correct Transport Assessment, dated October 2018, and that regard had been given to the report and surveys. Referring to the legal undertaking, the Council considered that this was not a matter that could be controlled by a condition.
5. In relation to parking, I have found in my main decision that, on the evidence before me, the loss of the parking spaces and the increased requirement to provide for hotel guests would not lead to a severe and unacceptable demand on the local car parks. However, it was explicitly stated in the officer report that the Council considered the submission of a morning survey only was insufficient. The

¹ Email dated 22 October 2018

report went on to say: *"The parking survey provides only a minimal snap-shot assessment of parking availability, eg evidence has only been submitted for one morning and there is no assessment of parking availability over lunchtimes, afternoons, evening or night times"*.

6. While I note that the correct document was referenced, there is clearly an error in this statement. The Traffic Team's consultation response refers to their overall concerns but states that their previous comments still stand. On the basis of the officer report, it cannot be concluded that the two surveys were properly considered as part of the application assessment. While I note that the Council have argued in their appeal statement that the two surveys remain insufficient to justify the proposal, their behaviour in relation to the planning application assessment was clearly unreasonable.
7. Although I differed in my own findings from their stated appeal position and the lack of contrary evidence regarding the capacity of the car parks was a factor in that decision, I do not find their position at appeal on highway matters inherently unreasonable. Nonetheless, as I cannot conclude that their consultee or planning officer assessed the parking issues against submitted information, the reason for refusal on this matter was unjustified. While this did not, on its own, lead to the necessity for the appeal, the Council's unreasonable behaviour would have led directly to the production of the Highway Statement, although I do not consider that further costs were wasted in responding to the Council's continued objections to the scheme on this point.
8. Turning to the matter of the legal undertaking, my decision is clear that I consider that a condition to secure such an undertaking was not appropriate in this case. Irrespective of any comments by the Council initially in relation to this matter, the applicant was professionally advised and should have been aware of the Planning Practice Guidance. I do not consider the Council were unreasonable in their position on this third reason for refusal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

10. 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 South Downs National Park Authority shall pay to JD Wetherspoons PLC, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in production of the Highway Statement to this appeal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to South Downs National Park Authority, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Mike Robins

INSPECTOR