
Costs Decision

Site visit made on 4 September 2019

by **S Edwards MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 October 2019

Costs application in relation to Appeal Ref: APP/L1765/W/19/3224995 Mitre Blue Light Ltd, Botley Road, Bishops Waltham SO32 1DR

- 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 Ibex Land and Property for a full award of costs against Winchester City Council.
 - The appeal was against the refusal of the Council to grant subject to conditions planning permission for construction of five, B1 starter units with parking and landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance¹ (the PPG) advises that irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG² lists different types of behaviours which may give rise to a substantive award of costs against local planning authorities.
3. The applicant considers that the Council acted unreasonably, by seeking extensions of time and then refusing the planning application which is now subject to this appeal. It is argued that the Council's actions prevented and delayed development which should clearly have been permitted, having regard to Development Plan policies, national policy and any other material considerations.
4. It is also argued that no justification was provided by the Council for seeking further comments from the Planning Policy team, changing the Case Officer's recommendation or disregarding some of the Development Plan Policies, which the applicant considers of relevance to the appeal proposal. Furthermore, the applicant takes the view that the Council's actions have resulted in a loss of rental income, and led to unnecessary costs associated with the appeal process.
5. Within my decision, I have found that the proposal would not accord with the spatial strategy which is set out within the Council's development plan. The reason for refusal and relevant development plan policies have been appropriately substantiated within the Council's submissions. Additionally,

¹ Paragraph: 030 Reference ID: 16-030-20140306.

² Paragraph: 049 Reference ID: 16-049-20140306.

the correspondence between the Council's Case Officer and the applicant demonstrates that material considerations were considered as part of the assessment of the appeal proposal, before reaching a final decision.

6. I understand the applicant's disappointment in respect of a change in the Case Officer's position. However, the views which may be expressed by the Case Officer as part of the application process are not ultimately binding upon the Council's decision or the ability for the officers responsible for the decision to take an opposing view. Additionally, the Case Officer was entitled to seek further comments from internal consultees during the course of the application to substantiate the Council's decision.
7. Whilst the main parties sought to work together and agreed extensions of time, notably to address the highway safety issues associated with the proposal, it is clear that the appeal could not, in the end, have been avoided. I therefore find that unreasonable behaviour or wasted expense, as described in the PPG, has not been established. On this basis, I conclude that an award of costs is not justified.

S Edwards

INSPECTOR