
Costs Decision

Site visit made on 11 September 2019

by Ian McHugh Dip TP MRTPI

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

Decision date: 14th October 2019

Costs application in relation to Appeal Ref: APP/A1910/W/18/3218197 Woodland Works, Water End Road, Potten End, Berkhamsted, HP4 2SH

- 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 Crimson Investment Assets Inc for a full award of costs against Dacorum Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for the retention of 4 no. storage containers and the placement of 3 no. additional storage containers (Use Class B8).
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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 appellant contends that the Council acted unreasonably in two respects. On a procedural matter, the appellant argues that the Council's Development Management Committee did not heed the professional advice of its officers, who recommended that the planning application be approved. The appellant considers that the Committee's decision was influenced by the representations received from third parties. Secondly, the appellant considers that the Council has failed to provide any evidence to substantiate the two reasons for refusal.
4. These two matters are linked, insofar that members of planning committees are entitled to make decisions that are contrary to the recommendations they receive. In that regard, I do not agree that the Council acted unreasonably from a procedural point of view. It is also incumbent upon the Committee that it considers fully the representations made by third parties. However, when determining an application, the Committee's decision should be clear with evidence produced to substantiate the reason(s) for refusal.
5. It is a statutory requirement that planning applications be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Consequently, the relevant policies of the Development Plan are the starting point for any decision. The provisions of the National Planning Policy Framework 2019 (the Framework) are a material consideration, with the weight attributed to the Framework being a matter for the decision maker.

6. With regard to the first reason for refusal, the Council's policy regarding infill development in the Green Belt is explicit and clear. I consider that members would have been aware of its content when considering the proposal. The Council Officer's report also made detailed reference to relevant wording of the Framework. Members would, therefore, be aware of the differences between the two when making its decision. I consider that the reason for refusal is clear and unambiguous and the fact that the Committee chose to give greater weight to the Development Plan (which it is entitled to do) does not, in my opinion, constitute unreasonable behaviour.
7. I now turn to the second reason for refusal in relation to highway matters. It is clear from the Officer's report that the Committee was made aware of the proposed intensity of the use; the number of vehicle trips that would be likely to be generated; and the comments of the Highway Authority. In addition, it was also made clear that the site has a lawful use as a builders yard.
8. Nevertheless, set against these points, a number of objections from local residents were submitted pointing to existing highway issues and to additional difficulties that may arise as a consequence of the development. Some of these objections included detailed information and I have no reason to consider that these comments were unfounded or lacked substance.
9. Although I have found in favour of the appellant and allowed the appeal, I do not find it unreasonable that the Council gave weight to the concerns of the local residents when making its decision. Furthermore, the appellant should have been aware of the concerns expressed by local residents during the planning application process and could have submitted additional supporting evidence at that stage.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Ian McHugh

INSPECTOR