



Costs Decision

Site visit made on 20 August 2019

by Christopher Butler BA (Hons) PG Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2019

Costs application in relation to Appeal Ref: APP/Z3825/W/19/3226555 37 High Street, Steyning BN44 3ZA

- 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 Cameron Robertson-Aikman for a full award of costs against Horsham District Council.
 - The appeal was against the refusal of planning permission for the conversion of former Lloyds Bank to provide 1no. retail unit and 4no. flats, the erection of 2no. dwellings to rear yard area, and conversion of existing barn to 1no. dwelling, with associated car parking.
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Decision

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

Reasons

2. Planning Practice 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 application is essentially made on two grounds. Firstly, the fact the Council Officers recommended that planning permission be granted for the proposal, but that the Council Members took a different course of action without adequate reason to do so and Secondly, there were no objections from statutory consultees in regard to the grounds of refusal and the Council has failed to substantiate their reasons for refusal with any technical evidence.
4. Examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.¹
5. Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
6. In regard to Officer's recommendation in the report to the Councils Planning Committee, I have noted that report and recommendation. However, the first ground of refusal relates to a matter of judgement, being whether or not the proposed development would harm the character and appearance of the area,

¹ Planning Practice Guidance - Appeals - Paragraph: 049 Reference ID: 16-049-20140306

with particular regard to whether the proposed works would preserve the special architectural and historic interest of Grade II listed buildings and whether the proposed development would preserve or enhance the character or appearance of the Steyning Conservation Area. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.

7. It will be seen from my decision that I agree with Council Members and that there were sufficient grounds for refusing planning permission on grounds related to the less than substantial harm to the significance of the heritage assets, bearing in mind the considerable importance and weight to the desirability of preserving listed buildings or their setting or any features of historical interest and the desirability of preserving or enhancing the character or appearance of the conservation area, as required under Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Area Act) 1990, as amended. It follows that I am satisfied that the Council has shown that it was able to substantiate that reason for refusal.
8. In regard to the second ground of refusal, Highways safety, with particular regard to the accessibility and usability of the off street parking spaces and whether parking would be displaced onto surrounding streets to the detriment of highway safety and living conditions of occupiers in the vicinity. No substantive evidence has been brought to my attention to demonstrate that that is the case. Indeed, the evidence points to the fact that the Local Highway Authority (LHA), West Sussex County Council, did not object to the development, subject to the imposition of conditions and that Council's officers recommended approval to Council Members in regard to this matter. It seems to me that the Council has followed a reason for refusal which it has been unable to substantiate at appeal, and this does amount to unreasonable behaviour.
9. However, I turn, to the matter of wasted expense. With the planning application submitted to the Council, the appellant submitted a Design and Access Statement in two parts (Part 1 of 2 and Part 2 of 2). Both documents made cursory reference to the off street parking arrangements, but other than drawing number 1619/2.21 no other details were provided. It is clear to me, that in designing the development proposal the appellants would have undertaken the exercise ensuring the parking spaces were accessible by preparing vehicle track diagrams.
10. In lodging the appeal, and in responding to the Council's case, the Appellant provided vehicle track diagrams to support their response, which was straightforward and would not have involved extra assessment. As indicated in paragraph 9 above, the appellant would have already prepared such diagrams during the designing of the development to satisfy themselves that the proposed parking was achievable.
11. The appellant's Appeal Statement of Case in regard to 'Highway Impacts' is short and mostly quotes the advice of the LHA and the Officer's report to the Councils Planning Committee. It seems to me that, in reality, the appellant has not undertaken extra work involved in providing the vehicle track diagrams and drafting the part of the appellant's Appeal Statement of Case in regard to 'Highway Impacts' and even if I am wrong in this, the extra work involved can

be regarded as 'de minimis'. In effect the Appellant has quickly and easily rebutted the Council's position without wasting expenditure.

12. As a result, although I find that the Council acted unreasonably in not substantiating the second reason for refusal dealing with highways safety, with particular regard to the accessibility and usability of the off street parking spaces and whether parking would be displaced onto surrounding streets to the detriment of highway safety and living conditions of occupiers in the vicinity it has not caused unnecessary expense. Therefore, no award is made in this regard.

Conclusion

13. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated and no award is made in this regard.

Christopher Butler

INSPECTOR