
Costs Decision

Site visit made on 17 September 2019

by R E Jones BSc (Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 22 October 2019

Costs application in relation to Appeal Ref: APP/K0425/W/193232098 1 St Marks House, Station Road, Bourne End SL8 5QF

- 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 UK Lux One SPV1 Ltd for a full award of costs against Wycombe District Council.
 - The appeal was against the refusal of planning permission for extension of the existing building and residential flats (granted under prior approval 18/07772/PNP30) to include an additional floor above the first floor level and associated works (in conjunction with works approved under 18/07440/FUL).
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Decision

1. The application for the 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 essentially relies on 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. This, in the appellant's view, amounts to unreasonable behaviour and resulted in unnecessary and wasted expense being incurred.
4. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council must clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
5. In this case, in reaching their decision Planning Committee members were informed by a site visit and were able to assess the proposal in context with the area's character and also the relationship with neighbouring dwellings. The Committee's resolution provided clear wording on the concerns in respect of the proposal's design and its effect on neighbouring property. Whilst it is acknowledged that Officers were then tasked with framing the refusal reasons around the committee members' resolution, those reasons were consistent with the thrust of the member's resolution. Moreover, an additional supplementary report assessing the issues raised by committee members provides objective analysis of the proposal that is consistent with the resolution of members,

whilst also indicating which development plan policies and parts of the supplementary planning guidance would be breached.

6. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The appellant had to address those concerns and the evidence of third parties in any event. Furthermore, having assessed the evidence submitted by the appellant in addressing the Council's reasonable concerns, I do not consider that unnecessary expense was incurred on the Appellant.
7. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R. E. Jones

INSPECTOR