
Costs Decision

Site visit made on 15 October 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2019

**Costs application in relation to Appeal Ref: APP/A1910/W/19/3233612
Milbor Engineering Hemel Hempstead Ltd, Belswains Lane, Hemel
Hempstead HP3 9XE**

- 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 Hobbs of Hobbs Developments Ltd for a full award of costs against Dacorum Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing building and construction of 21 one-bed flats.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 applicant considers that he pursued the application, incurring associated costs, in response to the advice received from the Council prior to and during the application. However, the reasons for refusal referred to matters not raised at the pre-application stage. Furthermore, additional costs relating to acquiring bat survey work at short notice were incurred during the processing of the application due to delayed consultation requests made by the Council relative to the dates of the planning committee. Finally, the applicant is of the view that the Council's Planning Committee were unsure on a number of key points. He submits that the Council has acted unreasonably in these regards.
4. The PPG further indicates that costs can only be awarded in relation to unnecessary or wasted expense at the appeal, although behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
5. Informal advice given before an application is made is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all material factors. As I have not been provided with the pre-application advice given, I have no firm basis to conclude that the informal advice given was misleading. Moreover, presumably it was consistent with the positive recommendation to the planning committee evident in the Council's committee report.

6. The Council is not duty bound to follow the advice of its professional officers so long as a case can be made for the contrary view. In this case, the main issue in dispute related to the impact of the proposal on the character and appearance of the area. This essentially required the exercise of planning judgement. Whilst I appreciate that the outcome of the application will have been a disappointment to the applicant, it does not follow that the Council were unreasonable in exercising that judgement differently to that of their professional officers and the Council has provided an appeal statement to support its decision, which references the relevant local and national policies. Although, I ultimately came to a different conclusion, I do not consider that the Council acted unreasonably in this regard.
7. Although the applicant considers that the need for a further emergence survey resulted from a delay in consulting relevant parties during the course of the application, the Council's reason for refusal did not raise concerns on this point. As such, there is no substantive evidence that the applicant was put to wasted expense in relation to the appeal in this regard.
8. The committee report presented to the Planning Committee described the nature of the development and relevant policies. Moreover, the applicant provided a summary further outlining his case, which was put before the committee. On the basis of the evidence presented, which includes a copy of the meeting minutes, I find nothing to suggest that a decision was not reached on the basis of the merits of the proposal and as such, the applicant was not put to unnecessary or wasted expense in testing this at appeal.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Helen O'Connor

Inspector