
Costs Decision

Site visit made on 26 November 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 17 December 2019

Costs application in relation to Appeal Ref: APP/U1430/W/19/3235597 Olivers Printers, Eastwood Road, Bexhill TN39 3PS

- 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 Laurence Hulkes of Park Lane Group for a full award of costs against Rother District Council.
 - The appeal was against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions 2, 14, 15 and 17 attached to planning permission Ref RR/2019/454/P.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 basis of the applicant's claim is that the Council acted unreasonably on grounds which I summarise as:
 - a) Failing to issue a timely decision;
 - b) Determining the application contrary to the officer recommendation;
 - c) Refusing permission without policy or other justification .
4. With regard to ground (a), the PPG states that although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account. In this regard the applicant both agreed an extension of time with the Council and that the Council issued a decision before its expiry. On this basis the Council cannot be held to have acted unreasonably. Even if this were not so, it is unclear what costs if any were incurred in relation the appeal proceedings. Insofar as costs in relation to the development have been cited, these costs are ineligible for an award. Ground (a) therefore fails.
5. I acknowledge the applicant's reference to the Council's lack of a demonstrable 5-year supply of deliverable housing sites. In this context however the application subject of the appeal did not directly involve the provision of housing. Indeed planning permission for the housing in question had already been granted. As such this matter has little relevance.

6. With regard to ground (b) Council members are not obliged to follow officer recommendations in making a decision. The applicant also acknowledges this point. Ground (b) therefore fails.
7. With regard to ground (c), as the decision was made by Councillors there was no report which fully explained their decision. This is not unusual. The Council otherwise quoted development plan policies within its decision, most of which were relevant, and provided further substantiation for the reasons for refusal within its appeal statement. Though I have reached a different view, I consider that there was valid scope for the Councillors to arrive at the decision that they did. This is because the encapsulation layer was not clearly shown on cross section plans of the boundaries, and because no specific details of the trellising to be used along the boundaries was provided, or therefore the scope of such trellising to allow views through. Though these points could have been clarified during the course of the Council's determination of the planning application, and I have sought to address trellis design by condition, these were issues which only arose at the time when Councillors made their decision. After this point no further scope would have existed for officers to seek clarification of details. I therefore consider that ground (c) fails.

Conclusion

8. For the reasons set out above I conclude that the application for an award of costs should be dismissed.

Benjamin Webb

INSPECTOR