
Costs Decision

Site visit made on 1 July 2020

by S Leonard BA (Hons) BTP MRTPI

- an Inspector appointed by the Secretary of State

Decision date: 28 July 2020

Costs application in relation to Appeal Ref: APP/H1705/D/20/3245692 Manor Farm House, Wall Lane, Silchester, Reading RG7 2HL

- 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 and Mrs A and N Burghes for a partial award of costs against Basingstoke & Deane Borough Council.
 - The appeal was against the refusal of planning permission for erection of replacement single storey side extension.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process. The applicant is seeking a partial award of costs on substantive grounds.
4. The Guidance states that local planning authorities are at risk of a substantive award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples of unreasonable behaviour by local planning authorities include: refusing planning permission on a planning ground capable of being dealt with by conditions.
5. The applicant claims that the Council has acted unreasonably by including, and subsequently pursuing as part of the appeal, refusal reason no.2 in respect of the potential impact of the proposal upon the significance of the scheduled monument (SAM) known as Silchester Roman Town. The applicant considers that, due to the small scale of the appeal proposal and the fact it would replace existing extensions, sufficient information was submitted with the planning application regarding the proposed means of construction, to enable the matter to be dealt with by means of a planning condition requiring a watching brief and other archaeological investigations as and when required, and that a Heritage Statement was not required to address this issue. The applicant

- asserts that this unreasonable behaviour has resulted in the unnecessary expense of preparing a Heritage Statement to address refusal reason no.2.
6. Furthermore, the applicant states that the Council did not advise that a Heritage Statement would be required as part of the planning application submission, either at pre-application stage or during the course of the application itself, and that it was not required to enable the Council to assess the impact of the proposal on the setting of nearby Listed Buildings.
 7. It will be seen from my decision that I agree with the Council in respect of the requirement for a Heritage Statement, having regard to the location of the appeal site within a SAM, and the advice in paragraph 189 of the *National Planning Policy Framework 2019*, (the Framework), which sets out the information required to be submitted at planning application stage, and paragraph 194 of the Framework which confirms that SAMs are designated heritage assets of the highest significance. As such, I find that the applicant has not been put to unnecessary or wasted expense in providing a Heritage Statement to address refusal reason no.2.
 8. I have no detailed evidence before me of any pre-application advice provided by the Council in respect of the appeal scheme. Whilst noting that the Council did not request a Heritage Statement to address the impact on the significance of the SAM at application stage, since this was not the sole reason for refusal, and noting the date of the consultation response from Historic England, I do not find that the Council has acted unreasonably in this respect. The applicant has not been put to unnecessary expense, since the Heritage Statement in respect of the impact on the significance of the SAM would have been required in any event.
 9. The non-requirement for a Heritage Statement to address the impact of the scheme on the nearby Listed Buildings (LBs) does not affect my findings above, given the distance between the appeal proposal and the LBs and the intervening screening, and the specific advice in the Framework in respect of development affecting SAMs.
 10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Leonard

INSPECTOR