
Costs Decision

Site visit made on 24 September 2020

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2020

**Costs application in relation to Appeal Ref: APP/K0425/W/20/3248842
Flightform House, Halifax Road, Cressex Business Park, High Wycombe,
Bucks, HP12 3SN**

- 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 I L Beeks (PF) Ltd for a full award of costs against Wycombe District Council.
 - The appeal was against the refusal of a prior approval application (Part 3 Class O) for change of use of existing building falling within Class B1(a) (Offices) to Class C3 (Dwellinghouses).
-

Decision

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

Reasons

2. The appeal followed the refusal on 9 March 2019 of an application made on 14 January 2020 for a prior approval application (Part 3 Class O) for change of use of existing building falling within Class B1(a) (Offices) to Class C3 (Dwellinghouses). My decision, which accompanies this decision, agreed with the Council's decision and dismissed the appeal.
3. 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. Unreasonable can be both procedural and substantive and it is on both bases upon which the appellant makes their application for costs.
4. It is stated, by the appellant, that the Council through the planning process have tried to delay the approval to prevent the permitted development approval and allowing the works to be carried out rather than making the decision on the fact before them. It is also contended that the application was delayed prior to the Article 4 Directive and that the decision should have been issued in time.
5. The application was made on 14 January 2020 with a decision having been issued on 9 March 2020 which is within eight weeks of submission. The statutory timescale for a prior approval application is 56 days. The Article 4 Direction came into force in excess of four months after the refusal was issued. The delegated report specifically acknowledged that the appeal site, at the point of determination, did not stand within an Article 4 Direction and this was not used in any way to refuse the proposal. I have no evidence before me to

suggest that the Council deliberately delayed a decision so as to allow the Article 4 Direction to come into force.

6. The reason for refusal was concerned with whether the building was utilised as an office on 29 May 2013. The legal status of the building was not questioned by the Council. The evidence required related to the actual use on the relevant date to assess qualification with the criteria set out in the GPDO.
7. The lease documents/extracts submitted with the appeal, as evidence of office use, were not submitted to the Council as part of, or during, the original application. The documents were submitted as new evidence used to justify the grounds of appeal stated. Based upon the evidence which would have been before the Council during the application process I find that they made a decision based upon the facts and evidence before them relating to this point and ultimately, the reason for refusal.
8. The Council's delegated report clearly takes account of the additional information the appellant's agent sent relating to noise during the application process, regardless of when such correspondence was uploaded to the Council's website. In the absence of specific noise surveys or professional evidence to the contrary, and with evidence of noise complaints, I find the Council's concerns were justified based on the information and facts available to them.
9. Overall, the Council have issued a decision which they were able to fully substantiate at appeal when considering the main issues.

Conclusion

10. I do not therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and a full award of costs is unjustified.

Eleni Randle

INSPECTOR