
Costs Decision

Site visit made on 1 September 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2020

**Costs application in relation to Appeal Ref: APP/H1705/W/20/3251221
Land at rear of Carlton and Campana House, Harts Lane, Burghclere,
Hampshire RG20 9JN**

- 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 Rivar Ltd for a full award of costs against Basingstoke & Deane Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 2 no. dwellings with detached garages.
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Decision

1. The application for costs is refused.

Reasons

2. Planning Practice Guidance advises that 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. Planning Practice Guidance states that examples of unreasonable behaviour by Local Planning Authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant argues that this proposal should have been approved with the use of conditions by the Council without delay, with the reason for refusal being unsupported by reasonable analysis.
5. With regards to the decision that was made, although I have allowed the appeal the issue of the impact to the trees, together with the other issues that would have been considered by the Planning Committee, were not simple or straightforward issues. I understand that the proposal was refused by Planning Committee, against the recommendations of the Council Planning Officer. However, this is their right to do so as part of the democratic process and the decision made is therefore the final decision of the Council. It is also the right of the Committee to not agree with consultees/experts so long as they can provide good reason to do so.
6. In terms of the supporting evidence, although I have come to a different conclusion with the appeal to the Council, the reason for refusal was set out in

the Notice of Decision and further explanation provided with the Council Statement of Case. The Council had particular concern as to the intensification with parts of the garden close to the base and canopy of the trees, for example. I have found the refusal reason sufficiently clear and concluded against planning policy. I also understand, given the nature of the concerns that the Council had, why it concluded that the issue could not be resolved by condition.

7. It is clear that the application took a long time before it was determined, but there is no substantive evidence before me that this was the fault of Council unreasonable behaviour.
8. Overall, I 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.

Steven Rennie

INSPECTOR