



Costs Decision

Site visit made on 20 May 2021

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2021

Costs application in relation to Appeal Ref: APP/J0405/W/20/3257990 19 and 20 Fort End, Haddenham HP17 8EJ

- 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 Richmond Assets Ltd for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of planning permission for a mixed use development including the demolition, extension, alteration and conversion of 19/20 Fort End, Haddenham and comprising an A3 unit with five dwellings together with parking and amenity space.
-

Decision

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

Reasons

2. National Planning Policy 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 or wasted expense in the appeal process. Claims can be procedural – relating to the process; or substantive – relating to the issues arising from the merits of the appeal.
3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The application for costs relates to the fact that the Council failed to determine the appeal application within the requisite timescale and that the Council failed to engage with the appellant during the course of the application.
5. The appellant has referred to a previous application, submitted in July 2018 and has highlighted a number of issues they encountered in the way the Council handled that application. Whilst this provides background, this application of costs relates only to the application which is the subject of the appeal.
6. I understand the sense of frustration that a lack of engagement from the Council, both before the submission and during the consideration of the appeal application might have caused. That said, there is no evidence to suggest that, even if discussions had taken place, it would have resulted in a situation where

the Council's concerns were fully addressed, and the outcome of the appeal application changed.

7. In terms of pre-application discussions, any informal advice provided 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 relevant factors.
8. In terms of the non-determination of the application, the appeal application had been registered and was with the Council for a period of around 6 months before the appeal was lodged. From the evidence, there would appear to be no clear and obvious reasons as to why the appeal application was not determined within the statutory timeframe and I recognise the advice provided within the National Planning Policy Framework for the need for local planning authorities to work pro-actively with applicants.
9. That said, from the various consultation responses received on the application, it is clear that there were a number of issues, especially in relation to the impact of the proposal upon identified heritage assets, that were unlikely to be resolved to the satisfaction of the local planning authority. As such, regardless of whether the Council determined the application or not, it meant that the only option available to the appellant to secure permission for the development as applied for, would have been via an appeal. Therefore, whilst the approach of the Council has been far from helpful and there appears to be little reason to justify why the appeal application was not determined, I cannot conclude that this would amount to unreasonable behaviour as defined in the PPG.
10. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Adrian Hunter

INSPECTOR