

Costs Decision

Site visit made on 27 October 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2021

Costs application in relation to Appeal Ref: APP/M5450/W/21/3279248 Bankfield Cottages, 1-2 Ass House Lane, Harrow, HA3 6SJ

- 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 Grims Dyke Golf Club c/o Mr Julian Harding for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of the Council to grant planning permission for two two-storey semi-detached houses with parking to replace original cottages.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The Planning Practice Guidance (the PPG) sets out that parties in planning appeals are expected to behave reasonably. It goes on to say that where a party has behaved unreasonably, and that unreasonable behaviour has caused unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. The PPG sets out examples of behaviour which may give rise to an award of costs against the Council.
3. Against those examples, the applicant sets out a number of complaints, to support their position that the Council acted unreasonably by preventing or delaying development that should have been permitted. In particular, the applicant highlights the recommendation for approval by Officers, as well as their assessment of development plan policy, acknowledgement of the fall-back position, previous permissions on the appeal site, lack of any other evidence and the failure to adopt a productive and proactive approach to the application.
4. Whilst I note the frustration of the applicant in light of the Officer recommendation to committee and the ultimate decision of the Council, a committee is not bound by the recommendation put to it.
5. I have considered in my main decision the issue of evidence around the proposal, its effects and potential mitigation, and I am satisfied that the Council's decision on the application was based on evidence which they had before them at that time and on which they were entitled to rely.
6. Similarly, for the reasons set out in my main decision, I do not consider that the planning grounds relating to the application could necessarily have been dealt with by condition given the scale and potential effects of the mitigation suggested at the appeal stage. I do not find that the approach of the Council was inconsistent with established case-law or procedure. Whilst I note the Council did not produce a statement in response to the appeal, their position on

the proposal as a whole was clear from their decision, the questionnaire and their response to this Costs application.

7. I note the concerns of the applicant as to whether or not the Council met its statutory duty with respect to regulations around explaining how they have worked positively and proactively with the applicant. Whilst I acknowledge this criticism, and within it, the inherent criticism of the substantive and procedural behaviour of the Council during both the application and subsequent appeal, I do not find that the behaviour of the Council was unreasonable in the terms of the PPG, given its decision was based around its satisfaction with the evidence presented to it in relation to safety concerns.

Conclusion

8. I therefore find that the Council has not demonstrated behaviour which could be considered unreasonable in the terms of the PPG, and which then resulted in unnecessary or wasted expense.
9. The application for a full award of costs should therefore be refused.

S Dean

INSPECTOR