
Costs Decisions

Site visit made on 9 December 2021

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2021

Costs application in relation to Appeal A Ref: APP/K2420/W/21/3272986 14 Chesterfield Way, Barwell LE9 8BH

- 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 Mrs Hannah Ladkin-Berry of DHASC Ltd for a full award of costs against Hinckley & Bosworth Borough Council.
 - The appeal was against the refusal of outline planning permission for residential development for five dwellings (Outline - access and scale).
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Costs application in relation to Appeal B Ref: APP/K2420/W/21/3281222 14 Chesterfield Way, Barwell LE9 8BH

- 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 Mrs Hannah Ladkin-Berry of DHASC Ltd for a full award of costs against Hinckley & Bosworth Borough Council.
 - The appeal was against the refusal of outline planning permission for residential development for four dwellings (Outline - access and scale).
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Decision

1. The application for an award of costs in Appeal A and Appeal B are both refused.

Reasons

2. The Planning Practice Guidance 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.
3. The appellant states that the Local Planning Authority (LPA) was unreasonable and the refusal was unnecessary as the LPA, following the deferral of the planning application in Appeal A from the Planning Committee on 8 December 2020, failed to present a revised scheme for 4 dwellings to a subsequent Planning Committee on 2 February 2021 as anticipated. The appellant states that the presentation of the same scheme as at the previous Committee angered the Committee Members as nothing had changed. The appellant considered that had the LPA conveyed its concerns regarding the revised scheme to the appellant's architect, an alternative scheme could have been produced which resulted in an approval and that time and money wasted in presenting the same scheme to the Committee would have been avoided.

4. I appreciate the appellant's concerns regarding the LPA's communications on the planning application and the responsiveness during the application process. However, the LPA's Planning Committee reports and the LPA's response to the cost application clearly outlined the steps taken to progress the planning application and the reasons why the LPA did not present the revised scheme to the Planning Committee meeting on 2 February 2021 in connection with the proposed development in Appeal A.
5. Whilst I appreciate the appellant's willingness to engage and negotiate further to bring forward a revised scheme, the LPA's submissions and supporting evidence, including the email correspondence between the LPA and appellant, clearly shows that it engaged with the appellant during the application process and carried out its duty to assess the development proposal in Appeal A as submitted. The decision on whether to enter into discussions and negotiate changes to a proposal is a discretionary one, and I do not consider it unreasonable for a LPA to determine an application as put before it.
6. The appellant also considered the LPA was unreasonable and the refusal was unnecessary as the Planning Committee's decision in Appeal A and B was against the advice of its professional officers. The officer's Planning Committee reports demonstrate the LPA's view as to how the proposal in Appeal A and B would affect the character and appearance of the area and the living conditions of the neighbouring properties using the evidence submitted by the appellant, third party representations and the LPA's observations. It clearly sets out the recommendations for approval in both Appeal A and B by the officers.
7. However, this is a matter of planning judgement and the Planning Committee Members are not bound by the officer's recommendations and professional advice in making their final decisions. In this instance, a case was made by the Planning Committee that the proposal in Appeal A and B was unacceptable and the reason for refusal set out in the decisions are complete, precise, specific and relevant to the applications. The reason for refusal in Appeal A and B clearly state the policy of the Hinckley and Bosworth Site Allocations and Development Management Policies Development Plan Document 2016 that the proposals would be in conflict with.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour by the LPA resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs in Appeal A and B is not justified.

David Troy

INSPECTOR