



Costs Decision

Site visit made on 16 November 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2022

Appeal Ref: APP/A1910/W/21/3271898

Berry Farm, Upper Bourne End Lane, Hemel Hempstead HP1 2RR

- 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 Bourne End Ltd for a full award of costs against Dacorum Borough Council.
 - The appeal was made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
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Decision

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

Reasons

2. 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.
3. The basis for this application for costs largely rests on the premise that the Council behaved unreasonably in refusing the variation of condition application. However, as explained in my appeal decision, whilst alterations to the layout of the scheme approved by a previous appeal decision¹ were sought, the proposed amended scheme would not constitute a minor material amendment to the approved scheme. Hence, the Council acted reasonably in this regard, providing clear reasons for doing so.
4. Reference has been made to the potential for further information to have been provided by the applicant to the Council, but considering the extent of the changes proposed, it is unlikely that such further details would have changed the Council's conclusions in relation to whether the proposed amended scheme would constitute a minor material amendment.
5. The applicant has referred to the conduct of the Council during the processing of the planning application. However, the PPG states that costs cannot be claimed for the period during the determination of the planning application and can only be claimed for unnecessary or wasted expense at the appeal². In any event, notwithstanding the alleged lack of contact from the Council, the Council were correct to refuse the planning application, meaning that no unnecessary

¹ APP/A1910/W/18/3219155

² Paragraph 16-033-20140306

or wasted expense has occurred and an appeal would have been the next route to seek resolution.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, I determine that the costs application should fail, and no award is made.

Alexander O'Doherty

INSPECTOR