



Costs Decision

Site visit made on 5 July 2022

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19th July 2022

Costs application in relation to Appeal Ref: APP/N1730/W/21/3286062 Chantryland, New Road, Eversley, Hook RG27 0PA

- 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 Mr P Wilmott for a full award of costs against Hart District Council.
 - The appeal was against the refusal of the Council grant planning permission for surfacing of private drive with permeable tarmac.
-

Decision

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

Reasons

2. 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 expense in the appeal process.
3. Paragraph 049 of the PPG provides examples of unreasonable behaviour by local planning authorities. These include; failure to produce evidence to substantiate each reason for refusal on appeal; refusing to enter into pre-application discussions when a more helpful approach would probably result in the appeal being avoided; and, vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant considers that the Council exhibited substantive unreasonable behaviour in coming to a decision to refuse the application on grounds which could not be justified and which had no factual basis.
5. I understand that the outcome of the application will have been a disappointment to the applicant. Notwithstanding this and the fact that the Council did not submit an appeal statement, they did provide a reasoned justification for refusing the planning application.
6. The reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly identifies which development plan policies the Council considered the proposal would be in conflict with.
7. Although I reached a different conclusion regarding the acceptability of the proposal on appeal, the Council were not therefore unreasonable in coming to their decision.

8. In determining the application, comparisons were made between the development and the previously approved surfacing of the drive, rather than assessing the submitted scheme on its own merits. Nevertheless, and irrespective of the previously approved surfacing, the Council concluded that the proposal was unacceptable, and as such their decision to refuse the application was reasonable.
9. Paragraph 39 the National Planning Policy Framework encourages early engagement between parties, which can assist to improve the efficiency and effectiveness of the planning system for all parties. However, such engagement is not mandatory. I understand the frustration felt by the applicant by being unable to effectively communicate with the Council regarding the acceptability of the proposal at either pre-application stage or during the consideration of the application. However, given the retrospective nature of the proposal, and the subsequent determination of the application, it is unlikely that pre-application discussions would have resulted in the appeal being unnecessary.
10. Although there was a delay between the Council first becoming aware that the driveway had not been surfaced in accordance with the approved details and the serving of a Breach of Condition Notice (BCN), the BCN was served within the statutory time limits. There is no clear evidence that had the Council acted more quickly, then this would have altered their decision to refuse the application. Therefore, the appeal would not have been avoided.
11. I therefore find that unreasonable behaviour, either substantive or procedural, 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 for costs is therefore not justified.

V Simpson

INSPECTOR