
Costs Decision

Site visit made on 20 September 2022

by E Dade BA (Hons) MSc MRTPI

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

Decision date: 17 October 2022

Costs application in relation to Appeal Ref: APP/G2245/W/21/3285943 149 to 155 London Road, Dunton Green, Sevenoaks, Kent TN13 2UP

- 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 BBL Property Developments Limited and Locksbottom Properties Limited for a full award of costs against Sevenoaks District Council.
 - The appeal was against the refusal of planning permission for demolition of the existing buildings and erection of 7 flats with associated parking area.
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Decision

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

Reasons

2. Planning Policy Guidance 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. The appellant submits that the Council has acted unreasonably by: failing to produce evidence to substantiate the reason for refusal relating to the proposals effects on the character and appearance of the area; not taking account of a significant material consideration, namely the fall-back position provided by extant planning consents; and asserts that highway matters could have been satisfactorily addressed prior to the determination of the application or by a condition.
4. The reason for the refusal relating to the design of the scheme and its effects on the character and appearance of the area as set out in the decision notice is complete, precise, specific, and relevant to the application. It also clearly states the policies of the Sevenoaks Core Strategy and Allocation and Development Management Plan that the proposal would conflict with. The reason for refusal has been adequately substantiated by the Council in its Officer's Report which demonstrates how the proposal's design and impacts on the street scene would result in harm to the character and appearance of the area.
5. The Officer's Report includes relevant information on the planning history of the site, which it identifies as material to the scheme, namely relating to the principle of change of use from commercial units to dwellings. The Council distinguished between the extant permissions and the current proposal and found the proposal would be more harmful. As explained in my appeal decision, I agree.

6. From the evidence before me, it is clear that the highway authority set out its concerns about the scheme in May 2021 with further comment provided in August 2021 following the submission of further details. This was in advance of the scheme's determination in September 2021. The burden of proof lies with the appellant to demonstrate that the scheme would be suitable in planning terms. The Officer's Report indicates that required information relating to access arrangements had not been supplied, and consequently this led the Council to conclude the scheme did not satisfy the requirements of the development plan.
7. For the reasons set out above, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

E Dade

INSPECTOR