
Costs Decision

Site visit made on 18 April 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Costs application in relation to Appeal Ref: APP/X1735/W/22/3306099 20 Greville Green, Emsworth, Hampshire PO10 7TH

- 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 Amy Dorey for a full award of costs against Havant Borough Council.
 - The appeal was made against the refusal of planning permission for log cabin in rear garden and temporary child-minding use for one year.
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Decision

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

Preliminary Matter

2. I attempted to visit the site on 7 March 2023, but I was unable to gain access. Consequently, a site visit was re-arranged for 18 April 2023.

Reasons

3. Planning Practice Guidance (the 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.
4. PPG includes examples of unreasonable behaviour by planning authorities that may lead to a substantive award of costs. Amongst other things, this can include, "preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations" and "vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis".
5. The applicant contends that the Council has behaved unreasonably due to delay in the registration of the application for this proposal; the absence of consultation with the Environmental Health Officer and failure to consider the use of conditions or that the application is for a temporary period; the absence of evidence of harm from other similar businesses; and, wrongly applying Policy CS16 of the Havant Borough Core Strategy 2011 (HBCS).
6. PPG explains that costs claims concern the appeal process only, but that the behaviour and actions during that time can be taken into account by the Inspector, in considering whether or not to make a costs award.

7. In terms of the delay in registering the planning application, the Council has explained that this was due to workload and a lack of staff and resources. In any case, even if it had registered and determined the application more quickly, it seems to me that the reason for refusal would have been the same and the need for the appeal would not have been avoided.
8. I note that the Environmental Health Officer was consulted on the planning application, although in the absence of a reply, the Council had regard to the comments made under a previous planning application. Given that the fundamental difference between the current proposal and the previous one is the temporary period of the scheme, it was reasonable for the Council to have regard to the previous comments of the Environmental Health Officer in this case.
9. Whilst the applicant is of the view that conditions could have been imposed by the Council to ensure an acceptable form of development, it was open to the Council to take a different view based on its assessment of the proposal.
10. The Council's officer report considers the likelihood and basis of noise and disturbance arising from the proposal, an issue also raised by interested parties. I am satisfied that the Council's position was not an unreasonable one to have reached, regardless of any impacts from other similar uses, or that the proposal was for a temporary period.
11. The Council's decision notice identified the policies of the development plan against which it was considered the proposal would fail to comply with. Whilst, for reasons explained in my main decision these policies, and in particular Policy CS16 of the HBCS, do not apply, the Council has also referenced the National Planning Policy Framework 2021 (the Framework), which is relevant to the proposal including in terms of achieving well-designed places. This supports the Council's position, even though I have reached a different conclusion. The Council provided a coherent explanation in support of its position, with reference to the Framework. The Council supported its contention that the proposed development would be harmful to the living conditions of nearby residents and the character of the local neighbourhood. The Council has therefore substantiated its reason for refusal in policy terms.
12. Although I have reached a different conclusion to the Council on the acceptability of the proposal, I am satisfied that the Council had grounds for reaching the conclusion it reached and has provided sufficient substantiation for its reason for doing so.
13. For the reasons given, I find that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated and that, therefore, an award of costs is not justified.

J White

INSPECTOR