



Costs Decision

Site visit made on 11 October 2023

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2024

Costs application in relation to Appeal Ref: APP/Z3635/W/22/3312221 280, 282 and 284 Staines Road East, Sunbury-on-Thames TW16 5AX

- 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 Deansgate M3 for a full award of costs against Spelthorne Borough Council.
 - The appeal was against the refusal of planning permission for Demolition of existing buildings and development of a 47-bedroom care home with associated parking, facilities and landscaping as shown on drawings numbered H21.31 (00)2, 3 and 4 all Rev B, (005), (9)3, 4 and 5, (21)1 and 2, 1361-00 PRLP, EX SS, 2021-5917-001 (P1), 002 (P2) and 003 (P1) and 484.3 Rev 2 received on 14 February 2022..
-

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 applicant's costs application refers to the guidance of the PPG, in particular regarding the Council replying on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay, not preventing or delaying development which should clearly be permitted, a failure to produce evidence to substantiate each reason for refusal and making vague, generalised or inaccurate assertions about a proposal's impact.
4. It is the applicant's case that, based on the decision notice and Officer's Report, the Council did not base their consideration of the application on an objective analysis and it is "a subjective opinion that has been formed in a vexatious manner" and that the level of harm referred to by the Council is "completely exaggerated". The applicant refers to the "use of pejorative and exaggerated language".
5. The applicant refers to delays in the submission of the Council's Statement to the appeal, having been granted an extension by a Case Officer. A decision that the appellant has referred to the Inspectorate's Complaints Department.
6. The applicant also states that the Council did not appear to realise that a full bat survey was submitted with the appeal to respond to one of the three reasons for refusal.

7. The Council responds that they were granted more time to submit their appeal statement, needed because of workflow pressure, that it was not immediately clear that a bat survey had been submitted with the appeal and that it was clearly acknowledged in the Council's statement the reason for refusal could be resolved by the submission of a bat survey.
8. Delays in the appeal process are undesirable but, in this instance, I am not satisfied that it has been demonstrated that it amounts to unreasonable behaviour. Furthermore, I find that the applicant has not demonstrated that the delay referred to has resulted in wasted time and expense. It would have been necessary to review the Council's submission whether it arrived on time or later.
9. On the basis of the evidence before me, I am satisfied that the Council made a reasoned decision and has substantiated the reasons for refusal at the subsequent appeal.
10. With regards to the bat survey, the survey could have been submitted to the Council and the matter resolved prior to the appeal being progressed. Planning Practice suggests "re-engaging with the local planning authority to discuss whether any changes to the proposal would make it more acceptable" Furthermore, I am not satisfied that the Council's failure to refer to the survey in their statement led to the applicant incurring wasted cost and expense.
11. As such, I find that unreasonable behaviour has not been demonstrated in this respect and the applicant has not demonstrated that they incurred unnecessary or wasted expense in the appeal process in this respect.
12. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Mr M Brooker

INSPECTOR