



Costs Decision

Site visit made on 4 January 2024

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2024

Costs application in relation to Appeal Ref: APP/N1730/W/23/3321996 Oakview House, Station Road, Hook RG27 9TP

- 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 Terence Lyons of TOR (HOOK) LTD for a full award of costs against Hart District Council.
 - The appeal was against the refusal of planning permission for demolition of the existing office building and erection of building to provide up to three retail units with associated new access and parking.
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Decision

1. The application for an award of costs is partially allowed in the terms set out below.

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. Part of the loading bay is located outside of the appeal site. As it is not within the appeal site, notice would not need to be served on the Highway Authority. While initially raising concerns over visibility, the Highway Authority did not object to the loading bay and having commented were clearly aware of the proposal. They subsequently confirmed they had no objection to the scheme and recommended conditions, including one relating to the provision of the loading bay. This indicates that there was a prospect of the action being performed within the limits imposed by the condition. Therefore, even if it were not apparent to the Council at the time of their decision, the Council were aware at the time of the appeal.
4. The evidence before me indicates that a condition can deal with the provision and retention of the loading bay and other works on land outside the appeal site. Nevertheless, the Council refused planning permission on a planning ground capable of being dealt with by conditions and persisted with their objection in this regard during the appeal. This was unreasonable, requiring the applicant to respond to this issue leading to additional costs.
5. There is no clear evidence before me that the appeal site is within the village square. Therefore, while Policy HK2 of the NP¹ would be applicable with it being in the Village Centre, Policy HK3 would not as it relates specifically to the Village Square. The Council have been unreasonable in refusing the scheme on

¹ Hook Neighbourhood Plan 2018-2032

Policy HK3 and the applicant has had to respond to deal with this matter leading to additional costs.

6. Policy HK12 relates to design. While appearance and scale are not to be agreed at this stage, the layout of the site would be part of the considerations of design and this policy is relevant. Policy HK13 requires development proposals affecting any of the buildings or features identified to set out the effect of the proposal on that building or feature's significance. The initial submissions did not consider the effect of the scheme on The Raven and the policy is therefore relevant to the appeal scheme. Although Policy NBE2 of the HLP2032² makes reference to the countryside, and a detailed landscape scheme would not have been needed at this stage, it does not state that areas within towns and villages are excluded from its considerations.
7. The Council did not refer to specific paragraphs of the National Planning Policy Framework (Framework) in their assessment of the effects on non-designated heritage assets (NDHAs). The Council identified harm to the NDHAs. While they chose to use some wording relating to designated heritage assets from the Framework, which could give rise to some confusion, there is no indication that they would have reached a different finding had they used alternative wording.
8. The Council considered parking provision could be reduced and that the extent of parking harmed the character and appearance of the area as part of their consideration of the scheme as a whole. In my decision, I explain why I disagree with that point. Notwithstanding this, the Council made a reasoned argument to support their concerns in this regard and related it to relevant policies.
9. The indicative elevations were not to be agreed, however, given it was clear from the layout that the position of the proposed building would be close to the boundary with Kew Villa, the effect of the proposal on the living conditions of its occupiers was a relevant consideration. Again, the Council made the nature of their concerns clear and linked them to applicable policies. Similar concerns were raised by third parties.
10. While being pro-active and engagement is encouraged, the Council are not bound to request further information during an application. Some concerns were relayed to the applicant and some additional information requested. That parties disagree on the merits of a scheme, in particular where some subjective assessment is required, does not indicate unreasonableness.
11. Nevertheless, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the reason for refusal relating to highway safety and having to address Policy HK3 of the NP and a partial award of costs is therefore warranted.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Hart District Council shall pay to Mr Terence Lyons of TOR (HOOK) LTD, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the highway safety reason for refusal and

² Hart Local Plan (Strategy and Sites) 2032

responding to Policy HK3 of the NP; such costs to be assessed in the Senior Courts Costs Office if not agreed.

13. The applicant is now invited to submit to the body awarded against, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Stuart Willis

INSPECTOR