
Costs Decision

Site visit made on 13 February 2024

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2024

Costs application in relation to Appeal Ref: APP/R3515/W/23/3325022 Land at Tye Road, Ipswich, Suffolk IP3 0BF

- 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 Jaevee Limited for a full award of costs against Ipswich Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a student accommodation block providing 160 bedrooms over 5 storeys.
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Decision

1. The application for an award of full costs is refused, but a partial award is made, in the terms set out below.

Reasons

2. 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. The examples of such behaviour given in the PPG include where, on appeal, a planning authority fails to produce evidence to substantiate each of its reasons for refusal of permission; and where a refusal reason rests on vague, generalised or inaccurate assertions, unsupported by objective analysis.
3. In the present case, the Council's RR1 alleged that the proposed development would conflict with SAP Policy SP27, due to its intended use as student accommodation rather than housing for general needs. The same RR also asserted that insufficient information had been submitted to demonstrate a need for such development. And it then went on to suggest that permission could not be granted because the development's contribution to the Council's housing land supply figures had not been established. On appeal, the Council's statement in support of RR1 added little to the contents of the decision notice itself.
4. In my decision on the appeal, I have found RR1 to be unfounded in all respects. Policy SP27 does not exclude housing which is to be occupied by students. The policy does not require the need for such accommodation to be demonstrated. And the question of how the development should be reflected in the land supply calculations was irrelevant. The reasons for my conclusions on these matters are given in the appeal decision and do not need to be repeated here. Suffice to say that the Council's evidence on these matters was

insubstantial and unconvincing, and provided no reasonable justification for the matters alleged.

5. I therefore find that that RR1 comprised a series of vague, inaccurate and unsupported assertions, which the Council was unable to substantiate. In refusing permission on this ground, the Council clearly acted unreasonably. As a result, the appellants were caused unnecessary expense in rebutting RR1 through the appeal process. An award in respects of the costs of contesting RR1 is therefore justified.
6. With regard to the Council's other refusal reasons, I have found RRs 4 and 5 to be justified, and in the case of RR2, I have found that part which relates to the lack of provision for amenity space also to be justified. The matters covered in the remainder of RR2, and in RR3, dealing respectively with impacts on neighbours and on the area's character and appearance, were matters of planning judgement; and whilst I have come to a different view on these matters from the Council, this does not make's the Council's actions unreasonable. And whilst the Council's submissions on these latter matters were brief, they were sufficient to show that Committee members had at least some grounds for disagreeing with the advice of officers. The Council therefore did not act unreasonably with regard to any of the matters in RRs 2-5.
7. However, for the reasons outlined above, I have found unreasonable behaviour in relation to RR1, and a partial award is therefore now made on this basis.

Costs Order

8. 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 Ipswich Borough Council shall pay to Jaevee Limited, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in respect of Refusal Reason No 1; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Ipswich Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J Felgate

INSPECTOR