



Costs Decision

Site visits made on 3 and 4 January 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th March 2024

Costs application in relation to Appeal Ref: APP/R0335/W/23/3325921 208 High Street, Crowthorne RG45 7AP

- 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 DPSK Ltd for a full award of costs against Bracknell Forest Borough Council.
 - The appeal was against the refusal of grant subject to conditions of planning permission for the change of use from bank (Class E) to hot food takeaway (Sui Generis); associated extraction/plant equipment and external alterations.
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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. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities which includes 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; failure to produce evidence to substantiate each reason for refusal; making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis and not determining similar cases in a consistent manner.
4. The decision is one which is a matter of planning judgement based on the merits of the proposal and the evidence submitted. As seen from my decision I have found that the Council had reasonable concerns about the impact of the proposed development upon the safe and efficient operation of the local highway network. It is apparent to me that the Council had legitimate concerns based on the evidence provided and has substantiated its position on appeal rather than vague, generalised or inaccurate assertions.
5. Whilst conditions could well address matters in relation to cycle parking, for the reasons set out in my decision, this cannot be said for the servicing arrangements.
6. It is not uncommon for additional information to be submitted during the course of an application. In this regard alternative parking layouts, swept-path diagrams and parking surveys were produced by the applicant. Whilst I appreciate that the applicant incurred additional costs in producing this

information it is evident that Council Officers and the applicant had been in discussion and the submission of the information sought to address concerns expressed by the Council. To me this would not be an extraordinary or unexpected cost in the context of the application process. Moreover, the PPG is clear that costs cannot be claimed for the period during determination of the planning application.

7. Whilst the additional information did not overcome the local planning authorities concerns, based on the evidence before me, I am satisfied that the Council properly evaluated the merits of the planning application. Despite the applicant's view, the Council's case in this regard is supported by an objective analysis.
8. There is nothing substantive to indicate that the Council failed to give due regard to the fallback position or other material considerations. The reason for refusal set out in the decision notice is complete and relevant to the application. It also clearly states the development plan policies that the proposal would be in conflict with. As a result, it follows that I do not agree that the Council acted unreasonably in this case.
9. The appellant has referred to an application for a hot food takeaway use at 2 Dukes Ride located at the northern end of the town centre. From the limited information before me there is no compelling evidence to clearly indicate that the Council has been inconsistent in its decision-making process.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated. For this reason, and having had regard to all other matters raised, an award of costs is not justified.

B Thandi

INSPECTOR