



Costs Decision

Site visit made on 20 May 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2024

Costs application in relation to Appeal Ref: APP/Z3825/W/23/3325135 Horsham Car Centre, Roffey Corner, Crawley Road, Horsham, RH12 4HG

- 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 Blackedge Properties Ltd for a full award of costs against Horsham District Council.
 - The appeal was against the refusal of planning permission for change of use of the vacant car showroom (sui generis) to retail unit (Class E(a)) with extensions to the ground floor and associated parking.
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Decision

1. The application for costs is partially allowed.

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 alleges that the Council refused permission for the scheme contrary to the advice of the Highways Authority and its professional officers in relation to the issues of parking demand and highway matters. This refusal is alleged to have led to the wasted costs of preparing and submitting the appeal. It is also alleged that the Council failed to produce evidence to defend the reasons for refusal, without substantive evidence submitted in response to the applicant's case on the matters in dispute.
4. The Council's response is that its Planning Committee is not bound by the advice of its professional officers or consultees and can reach its own conclusions by attaching different weight to the planning merits of the case. In this instance, the Planning Committee weighed the considerations and reached a decision to refuse permission for the two reasons set out in the decision notice.
5. In my view, whilst the first reason for refusal is not vague or generalised, the second reason for refusal is less clear. The Council's insertion of explanatory words in its Statement about how specifically the scheme would amount to overdevelopment only serves to highlight that this reason for refusal is not well founded.
6. Additionally, in my view, the Council's defence of both reasons for refusal is particularly lacking. There is little from the Council to understand why its Planning Committee departed from the advice of officer's and consultees. I have been assisted in this regard by the submissions of interested parties, but

piecing together the Committee's assessment of the matter should not be necessary. The Council's case should stand up to scrutiny and should respond to evidence submitted by the appellant. My view is that the short letter Statement submitted by the Council, largely comprising the suggested conditions, offers very little to explain the Council's decision in light of the detailed analysis which was before the Planning Committee.

7. My conclusion is not that the appeal was entirely avoidable given the Committee's right to reach an alternative view on the merits of the case, but that the Council has acted unreasonably in terms described by the PPG by failing to properly substantiate its refusal. In the circumstances, my view is that the applicant was put to the unnecessary expense of preparing further evidence which does not appear to have been properly considered or addressed.
8. In view of the above, my award of costs is limited to the preparation of the substantive case on behalf of the applicant, covering both reasons for refusal, but excluding the hours associated with the basic administration of submitting the appeal and handling the associated correspondence.

Costs Order

9. 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 Horsham District Council shall pay to Blackedge Properties Ltd the partial costs of the appeal proceedings described in paragraphs 7 and 8 of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The Applicant is now invited to submit to Horsham District 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.

H Nicholls

INSPECTOR