



Costs Decision

Site visit made on 4 September 2024

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2024

Costs application in relation to Appeal Ref: APP/A1910/W/24/3343926 16 Park Road, Hemel Hempstead, Hertfordshire HP1 1JS

- 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 Ray Adde for a full award of costs against Dacorum Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for change of use of private hard standing into private green space and erection of new fence line.
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Decision

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

Preliminary Matter

2. Though the evidence suggests the claim is made exclusively in respect of the second reason for refusal, the applicant has described their appeal as being for full costs rather than partial. I have assessed the claim on the basis that it is for full costs, therefore.

Reasons

3. 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.
4. Shortly before submitting the planning application subject of the appeal (ref 24/00484/FUL - the second application) the applicant submitted a comparable scheme, ref 24/00043/FUL (the first application). In their response to the first application the Highways Authority (HA), in their role as a consultee, did not state that the hardstanding had potential for use in support of sustainable transport modes, but they did do so in response to the second. There is no suggestion of a material change in policy or circumstances between times. The applicant seeks costs against the Council for following the advice of the HA.
5. In the first application the HA stated that their rights over the hardstanding would need to be extinguished if the development were approved, and that they would expect a footway to be maintained and confirmation be provided that a utilities chamber could be relocated before extinguishment would be approved. It also made clear that it would make an informed recommendation for the site only once these had been provided. As such, the HA were explicit in withholding their full assessment.

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6. The second application included retention of a footway and confirmation regarding the utilities chamber. Accordingly, the HA made an informed recommendation, and found that the hardstanding had potential to support sustainable transport modes. This is in line with the approach it had set out and I see no evidence that this was unreasonable, therefore.
 7. There is no suggestion of any specific or current intention on the part of the HA to make use of the hardstanding. Nevertheless, as per my determination of the appeal, the future use of it to support sustainable transport modes is feasible and the appeal proposal would frustrate that opportunity. The absence of a specific intention does not undermine the reason for refusal, and does not amount to unreasonable behaviour on the part of the Council, therefore.
 8. I see no evidence that the Council's delegated report demonstrates a failure to objectively assess the advice of the HA in this issue. The relevant paragraph of the delegated report outlines the HA's position before, in a separate sentence, stating that the proposal would prevent future development of the site, contrary to the Transport Plan, thereby offering an assessment.
 9. As per my determination of the appeal, facilities associated with sustainable transport modes are likely to be modest in size, and not erode the open character of the Close to an extent comparable to the appeal proposal. As such, there is no inherent contradiction in refusing the appeal scheme on grounds of character and appearance whilst also envisaging the provision of those facilities in future, and no evidence of unreasonable behaviour, therefore.

Conclusion

10. Unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

A Knight

INSPECTOR