



Costs Decision

Site visit made on 14 November 2024

by R Lawrence BSc (Hons), PGDip (TP), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2025

Costs application in relation to Appeal Ref: APP/Z3825/W/24/3344002

Holmbush Farm, Crawley Road, Faygate, West Sussex RH12 4SE

- 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 Piers Calvert for a full award of costs against Horsham District Council.
 - The appeal was against the refusal of planning permission for the change of use from tea rooms (Class E) to restaurant/cafe with ancillary hot food takeaway (Sui Generis).
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Decision

1. The application for a full 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. The applicant alleges that the Council behaved unreasonably on substantive grounds. These include that the Council failed to substantiate its stated reason for refusal of planning permission, relying upon vague, generalised assertions about the proposal. It is also contended that the Council did not take into account the lawful planning use and established fall-back position, a material consideration and consequently prevented development that should have been permitted.
4. The Council, or more specifically its planning committee, refused the planning application against officer advice. Whilst a planning committee is entitled to make decisions that are contrary to the officer recommendation, where this occurs it should show reasonable planning grounds for taking a contrary decision and produce sound, substantive and defensible evidence on appeal to support the decision in all respects.
5. The Council's objections in relation to amenity stem from the proposed opening hours. Although the description of development does not specifically refer to the proposed hours, these are clearly stated on the submitted planning application form and are integral to the proposed development. The hours of operation are highly relevant in this case to the effects on amenity from noise and activity, with background noise levels varying during the day and evening. It is therefore wholly appropriate for the Council to have had regard to the proposed hours in assessing the proposal.

6. The Council's case, as set out within its appeal statement, is precise in identifying the harm resulting from the increased activity at evenings and weekends through reference to the potential sources of noise and the residential properties which it considers would be affected. The statement contains specific detail regarding vehicle routing and an assessment of the proposed mitigation put forward. Therefore, I cannot agree that the case was based upon vague, generalised assertions about the proposal.
7. The lawful use, and fall-back position, was in this case set out in detail within the committee report. The report, in assessing each of the relevant topics, makes comparisons with the fall-back position. This is also summarised in the Council's appeal statement where it notes that the proposed hours would exceed those which would have been the case historically. The weight to be given to a fall-back position is a matter for the decision maker, in this case, the former tea room was required to operate ancillary to the now closed educational farm thereby limiting the weight to be attached.
8. It will be seen from my decision that, like the Council's committee members, I found that the proposal, with particular regard to the opening hours and takeaway, would cause harm to the amenities of neighbouring occupiers. It follows that I am satisfied that the Council has shown that it was able to substantiate its reason for refusal, and that it had regard to the fallback position. Furthermore, as I have identified harm, I do not consider that the Council prevented or delayed development that should have been permitted or find that it behaved unreasonably in this regard.
9. Having considered the various points put forward by the applicant, I do not consider that unreasonable behaviour on the part of the Council has been demonstrated. It follows that there has been no unnecessary or wasted expense during the appeal process.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

R Lawrence

INSPECTOR