



Costs Decision

Hearing held on 1 April 2025

Site visit made on 1 April 2025

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2025

Costs application in relation to Appeal Ref: APP/A1910/W/24/3358181

1 Dale End, Box Lane, Felden, HEMEL HEMPSTEAD, Hertfordshire, HP3 0DH

- 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 Visao Limited for a partial award of costs against Dacorum Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing dwelling and construction of 9 apartments with associated outbuildings, parking, landscaping and access.
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Decision

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

The submissions for Visao Limited (the applicant).

2. The costs application was submitted in writing, with Dacorum Borough Council also responding in writing.
3. At paragraph 1.1 of the applicant's Costs Statement it states that:

... the Appellant has been put to unnecessary and wasted expense in addressing several of the reasons for refusal at the Appeal stage, when issues could have been resolved during the application. This is a direct consequence of the unreasonable behaviour of Planning Officers.

4. Furthermore, at 1.3 it states that:

The Appellant is therefore seeking costs in respect of RfR 3 (Overlooking) and RfR 4 (Refuse collection) and will demonstrate why the LPA have acted unreasonably in respect of the application 24/00781/FUL the subject of this Appeal.

Refuse Collection

5. With regard to the reason for refusal (RfR) 4 (Refuse Collection) the applicant states that with a previous application for a similar development at this same site the Council had agreed to roadside refuse collection and that this was in accordance with local policy. The situation would be materially the same with the appeal proposals and would also be the same as the flat development at No 7 Box Lane, according to the applicant. The applicant therefore stated that the Council objecting to the kerbside collection proposal for this appeal would be inconsistent with previous decisions.
6. The Council have pointed to some changes in circumstances since the first application for this site, with the second application showing refuse vehicles

entering and turning on site as part of the refuse collection. With the appeal proposal now reverting to on-street collection there has been an objection from the Waste Department (Document LPA/13).

7. In my view, kerbside collection is acceptable in this location, as is set out in the Appeal Decision. However, the Council case had some merit and on a matter of safety it is not unreasonable for the Council to take full account of an objection from the Waste Department even if this has led to an unfortunate inconsistency with previous decisions for development of this Box Lane site. Given the Council stance this was not an issue that could have been simply addressed with a more positive approach by the Council.
8. It is recognised that the flat development at No 7 Box Lane has kerbside collection, though there are some different circumstances, such as the distance from the road junction with London Road.
9. On this matter, whilst acknowledging some inconsistency from the Council in its decisions, the Council did not act unreasonably.

Overlooking Impact

10. The applicant states that as the 2023 Appeal Decision for this site (ref: APP/A1910/W/22/3300850) concluded that there was no unacceptable harm to living conditions of neighbours, this similar proposal should not have resulted in a reason for refusal based on adverse impacts to neighbour living conditions from overlooking.
11. The Council argue that there are material differences between the proposal which make the overlooking impact from a side elevation window in the proposed building to be unacceptable and with a greater degree of overlooking impact than with the previous appeal scheme.
12. As was evident from the Appeal Decision for this scheme, it was concluded that there would not be an unacceptable impact to neighbour living conditions from overlooking and loss of privacy. However, it is recognised that there would be some level of overlooking from the proposed second floor window in question into the rear garden and conservatory of 5 Box Lane. It is also accepted that there are differences between the previous appeal scheme and the proposals subject to this appeal which indicates that a full reappraisal was necessary.
13. After such an appraisal of overlooking impact, it was the Council's view that the overlooking impact was unacceptable. Whilst I have concluded otherwise, this was not an unreasonable conclusion by the Council, especially given the differences from the previous appeal scheme and the fact that there would be some overlooking from the proposed development.
14. On this matter, it is concluded that the council did not act unreasonably.

Tree and Bat Issues

15. Both the impact to trees and bats were originally reasons for refusal for the Council in their Decision Notice, but these issues fell away following additional information submitted at the appeal stage.

16. It is accepted that both issues could have been resolved during the planning application process, but it is also noted that there were other reasons for refusal that would likely have led to the refusal of the proposal even if the trees and bats issues were overcome. As such, it is not unreasonable for the Council to have not pursued resolution to these matters, though this would have been ideally what would have happened.
17. The expense and time taken to resolve these matters would have been necessary from the applicant whether this occurred at planning application or appeal stage.

Character of the Area

18. The applicant stated that the Council gave too much weight (a significant weight) to policy HCA4 'Development Principles in the Felden West character appraisal' even though the Inspector for the 2023 appeal gave it only limited weight. This was mainly due to the changing character of the area, such as the less specious character, since its drafting.
19. It is clear that the Council did use and consider policy HCA4 in its considerations of the proposal now subject to the appeal. However, it is not clear that the Council gave this policy any more than limited weight, which would accord with the previous appeal decision. Limited weight does still allow for a consideration of this policy and there is no substantive evidence that the Council gave this policy any more weight than that.
20. The Council did not act unreasonably on this matter.

Lack of a positive and proactive approach

21. It is unfortunate that the Council and its Officers did not have better communication with the applicant through the planning application process. It is evident that the applicant was willing to communicate and trying to engage more with the Council. However, from the evidence it is likely that the planning application would have been refused even if there had been better engagement from the Council, due to the number of issues that remained which could not have been simply addressed. Therefore, better communication from the Council at the planning application stage would not likely have overcome the issues discussed above and so this lack of communication would not have avoided the necessary costs for the applicant in the appeal process.
22. There is a shortfall in housing land supply demonstrable by the Council, but the evidence suggests that the Council were aware of this and factored this into their decisions at planning application stage. The housing land supply position did not necessarily mean the Council had to grant planning permission.
23. It is noted that there has been a previous costs application linked to a previous appeal on this site and also that the applicant asked for a different Planning Officer to deal with the latest application. However, these matters are not subject to this Costs Decision as they do not affect the appeal which this costs application is linked to. Likewise, matters relating to previous planning applications on this site, which are meant to demonstrate the behaviours and actions of the Planning Officer, are not directly relevant to this latest appeal. Furthermore, I have not found that the Council or any individual Planning Officer or official of the Council has acted unreasonably in relation to this appeal.

Reasons

24. 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.
25. For the reasons set out above, unreasonable behaviour by the Council resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Mr S Rennie

INSPECTOR