



Costs Decision

Site visit made on 7 August 2019

by Rebecca Thomas MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2019

Costs application in relation to Appeal Ref: APP/A1910/W/19/3227871 320a High Street, Berkhamsted, HP4 1HT

- 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 Philip Dean Limited on behalf of Mr S Williams for a partial award of costs against Dacorum Borough Council.
 - The appeal was against the refusal of planning permission for Change of Use and conversion of existing ground floor from veterinary practice into a two-bedroom flat; Roof extension at first floor to increase size of existing first floor flat to a larger two-bedroom flat; Erection of two new-build two-bedroom apartments to the rear facing St.Johns Well Lane; Provision of car parking for five vehicles, five-bay cycle store and waste refuse store.
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Decision

1. The application for a partial award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance 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 Appellant submits that the Council has acted unreasonably in that it has gone against the advice of its professional officers without good reason and has prevented and delayed development which should clearly be permitted. The appellants contend that the Council failed to substantiate the objections on the grounds of loss of social infrastructure and has provided information that is manifestly inaccurate or untrue because the veterinary practice does not constitute part of social infrastructure. Further, the Council states that the loss of the veterinary practice would adversely affect the vitality and vibrancy of Berkhamsted town centre, which the appellant disputes due to the location of the appeal site outside the defined town centre. The appellants consider that the Council has acted unreasonably and the appellant has been put to unnecessary costs.
4. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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.

5. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
6. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
7. In this case, the planning officers confirmed in their report to committee that the site is located within a residential area of Berkhamsted and that it does not fall within a General Employment Area and is not protected for employment use retention. Notwithstanding the letters of objection, there is no evidence to counteract the evidence provided by the appellants which concludes on the compliance of the development with policy.
8. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the development proposed should reasonably have been permitted. The refusal of planning permission on the two grounds described therefore constitutes unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

10. 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 Dacorum Borough Council shall pay to Mr S Williams, the partial costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Dacorum Borough 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.

Rebecca Thomas

INSPECTOR