



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117-987-8927
Switchboard 0117-987-8000
Fax No. 0117-987-8769
GTN 1374-

Your Reference:

92/013

Council References:

4/0439/95EL; 4/0435/95LB

4/0864/95EN; 4/0865/95EN

Our references:

Appeal A T/APP/A1910/E/95/811793

Appeal B T/APP/A1910/A/95/254859

Appeal C T/APP/C/95/A1910/639189

Appeal D T/APP/F/95/A1910/639167

Date:

19 JUL 1996

David Lane Associates
3 College Street
St Albans
Herts
AL3 4PW

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 174 AND 175(7)
AND SCHEDULE 6. LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
PLANNING (CONSEQUENTIAL PROVISIONS) ACT 1990, SCHEDULE 4
APPLICATION FOR COSTS AGAINST DACORUM BOROUGH COUNCIL, BY
SHENDISH MANOR CONFERENCE AND LEISURE CENTRE.

1. I refer to your application for an award of costs against the Dacorum Borough Council which was made at the Inquiry held at The Civic Centre, Hemel Hempstead on 3 and 4 July 1996. The Inquiry was in connection with 4 appeals made by Shendish Manor Conference and Leisure Centre against refusals of planning permission and listed building consent and against a planning enforcement notice and a listed building enforcement notice all issued by the Council.
2. The details of all four appeals, including the alleged contraventions as set out in the planning and listed building enforcement notices, are set out in my decision letter, a copy of which is enclosed.
3. In support of the application, Circular 8/93 was referred to and it is contended that the Council acted unreasonably in resorting to enforcement action. It was further stressed that this behaviour resulted in unnecessary loss and expense for your client. The application was for a full and/or partial award of costs.
4. It was contended that the Council need not have caused the inquiry to take place in the first instance. Amongst other things, it was stressed that the Council had been mistaken in enforcing against the concrete base; that marquee 1 was only required on a temporary basis; that negotiations could have resolved the matters in dispute and that some of the matters enforced against were 'de minimis'. The 'draconian' powers of enforcement were not considered to have been appropriate or necessary.

5. The Council refuted any unreasonable behaviour and, in quoting Circular 8/93, it was stressed that all of the disputed matters related to questions of balance. It was contended that all of the matters justified refusals of permission and consent and that it was expedient and necessary to issue the two enforcement notices. The Council also contended that it had acted reasonably in withdrawing the inappropriate parts of the notices and their actions had not prolonged the inquiry.

6. The application for costs falls to be determined in accordance with the advice contained in Circular 8/93 and all of the relevant circumstances of the appeal, irrespective of its outcome. Costs may only be awarded against a party which has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.

7. Having considered all of the factors relating to this case, I am not convinced that the authority acted in an unreasonable manner. From all of the evidence it is clear to me that your client carried out unauthorised works and the authority considered it expedient to issue the two notices. Bearing in mind the complexities of the planning history at Shendish and the fact that your client had not sought the authority's views on some of the unauthorised works, I do not consider that it was unreasonable of the authority to proceed with enforcement action.

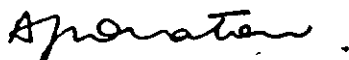
8. Nor do I consider that the authority's actions prolonged the inquiry to a significant degree. The inquiry had been scheduled for two days, it lasted for two days and, in my opinion, this was not an unreasonable period considering the number of appeals; their complexities and the number of witnesses. Despite the comments and speculation about what might have been negotiated, it seems to me, as a matter of fact and degree that the stance taken by your client was, inevitably, going to lead to enforcement action. It seems to me, therefore, that the Council did not act unreasonably in serving the notice.

9. In the absence of any proven unreasonable behaviour on the part of the authority, any claim for costs against them cannot be justified. I do not, therefore, consider that an award of costs in favour of your client ought to be granted.

Formal Decision

10. For the above reasons and in exercise of the powers transferred to me, I hereby refuse the application by Shendish Manor conference and Leisure Centre for an award of costs against The Dacorum Borough Council.

Yours faithfully,



ANTHONY J WHARTON BArch RIBA RIAS MRTPI
Inspector