
Costs Decision

Site visit made on 18 July 2016

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 July 2016

Costs application in relation to Appeal Ref: APP/C3620/W/16/3147491 Farthings, Randalls Road, Leatherhead, Surrey KT22 0AA

- 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 Beechcroft Developments Ltd, Bewley Homes and Porthaven Care for an award of costs against Mole Valley District Council.
 - The appeal was against the refusal of planning permission for a 64 bed care home, 35 assisted living units, 30 family houses and 20 affordable dwellings together with access, parking and landscaping; the proposal includes the demolition of Farthings.
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Decision

1. The application for an award of costs is allowed in part.

Preliminary Matters

2. The appellant does not specifically state if the application for costs is for a full award or a partial award. However, the costs application only refers to the first 3 of the 5 reasons for refusal. On that basis, I have treated it as a claim for a partial award, relating to those matters only.

Reasons

3. National Planning Practice Guidance (PPG) states that parties will normally be expected to meet their own costs in relation to appeals and 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.
4. In relation to the issue of character, the appellant suggests that the Council has unreasonably sought to resist the principle of development and has unreasonably confined its consideration of character to a restricted area. I have carefully assessed the Council's case and reference is clearly made to the extant planning permission and to the circumstances surrounding its approval. Whilst the Council have also explained that some of those circumstances (most notably the 5 year housing land supply position) have changed, they acknowledge in the Committee report that "the outline permission therefore represents a fall-back position against which the current application should be considered." Furthermore, their appeal statement states, "Thus, whilst the principle of residential development on the appeal site remains acceptable...". It seems clear to me that the Council has not sought to question the principle of residential development of the site.

5. In relation to character a judgement needs to be made in relation to how far the net is cast against which to judge a new proposal. This can and does vary on a case by case basis and there is no set distance that one could reasonably employ. I have taken careful account of the surroundings and took time to drive and walk to the areas referred to at my site visit. Whilst I observed some more urban forms of development to the northeast and east of the site, I consider that the most relevant context against which to judge the proposal includes the more immediate surrounding land, including the open areas (with sparse housing on Randalls Road) on 3 sides of the proposal site. In this respect I have agreed with the Council's judgement and do not consider their consideration of the relevant area to have been unreasonable.
6. In relation to recreation space, the Council's Committee report includes at its addendum, that the Council's Senior Parks Officer is supportive of the appellants' proposal. The context for this is that some open space would be provided on site, plus the securing of a "significant sum" for improvements to the Redhouse Grounds. It should be born in mind that no mechanism exists for the significant sum referred to and in any event, I have agreed with the Council's final decision that the Redhouse Grounds would not be likely to be used by residents of the appeal site as it is too far away and involves an unattractive route for pedestrians. Therefore, even just taking the officers opinion in isolation, an important part of the offer would not be forthcoming. Additionally, I have agreed with the remainder of the Councils case in relation to this issue. Therefore, I find no unreasonable behaviour by the Council in this respect.
7. In relation to the servicing of the development by refuse collection lorries, the addendum information to the Committee report sets out that the Council's contractor and Waste Officer have found the provision of collection points and vehicle manoeuvring to be acceptable. In this respect, it seems that the issue of residents moving their bins has been taken into account, as well as collection vehicles reversing a short distance, which in my experience can be normal. In the face of the officers view that this technical requirement is met, the Council's case amounts to "...Members...concluded that the designers could do better". In the absence of any other technical information, I consider that the Council's case in respect of this issue is not based on evidence of any substance and amounts to a vague assertion. In this instance, I consider that the Council has acted unreasonably.
8. In more general terms, Members of the Council are not bound to accept the recommendation of their officers but if they do reject the recommendation, their case should be based on sound evidence. In relation to the first 2 points as set out above, there is a judgement involved which I have concluded has been reasonably made by the Council and which is supported within their appeal statement. However, in relation to the last of the 3 points, this is more a technical matter which may not rely on judgement so much and certainly not on the judgement expressed in the Councils response to the claim for costs.
9. Therefore, in respect of this last issue alone, I consider that the Council has acted unreasonably and their actions have meant that the appellant has incurred unnecessary expense. In respect of this latter issue only, 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 Mole Valley District Council shall pay to Beechcroft Developments Ltd, Bewley Homes and Porthaven Care, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to dealing with the matter of servicing arrangements only.
11. The applicant is now invited to submit to Mole Valley District 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

S T Wood

INSPECTOR