

Costs Decision

Site visit made on 21 September 2016

by Megan Thomas Barrister-at-Law

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

Decision date: 1 November 2016

Costs application in relation to Appeal Ref: APP/L3625/W/16/3152728 Land adjacent to 122 Brambletye Park Road, Redhill RH1 6EJ

- 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 Mesterhill Ltd for a partial award of costs against Reigate and Banstead Council.
 - The appeal was against the refusal of the Council to grant planning permission for "apartment block development over 3 levels plus loft containing 1 No. single bed flat and 6 No. two bed flats. External landscaping with 5 No. car parking spaces (including 2 No. for disabled use)"
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Decision

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

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 has made an application for a partial award of costs in relation to the reason for refusal which requires that a contribution to the provision of affordable housing be made.
4. PPG advises that affordable housing contributions should not be sought from housing developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm. A Written Ministerial Statement dated 28 November 2014 set out similar advice. There have also been a number of appeal decisions which have addressed whether or not a local planning authority can require affordable housing contributions from schemes which are below the PPG threshold, including in relation to this particular local planning authority. The appellant primarily argues that there have been so many appeal decisions in which this local planning authority has failed to persuade an Inspector that a contribution should be made, that it should not have pursued a s.106 obligation for affordable housing in this appeal.
5. However, it is a matter for the decision maker whether or not an affordable housing contribution falling below the threshold should be secured, on a case-by-case basis. In this case, the Council has referred, inter alia, to its

adopted Core Strategy policy CS15 and a recently compiled Position Statement which draws on relevant statistics and data relating to the housing market. Given the evolving and changing nature of the housing market, it is not unreasonable of the Council to seek to test the weight of that evidence against PPG advice from time to time. In the particular circumstances, I see no reason why the recent Position Statement should not be tested in that way, notwithstanding previous appeal decisions relying on similar but not identical evidence.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. Costs are not awarded to the appellant in this instance.

Megan Thomas

INSPECTOR