

Costs Decision

Hearing held on 22 & 23 November 2016

Site visit made on 23 November 2016

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 23 December 2016

**Costs application in relation to Appeal Ref: APP/Y3615/W/16/3147135
Site of the former Redwood Care Home, 179 Epsom Road, Guildford,
Surrey GU1 2QY**

- 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 Linden Homes South for a full award of costs against Guildford Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the demolition of the former Redwood Care Home and the provision of 24 dwellings comprising a mix of 1 & 2 bedroom apartments and 3, 4 & 5 bedroom houses, including affordable dwellings and off-street parking.
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Decision

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

The submissions for Linden Homes South

2. The application is made, with reference to paragraphs 028, 030 and 032 of Planning Practice Guidance (PPG), on four grounds. First, that the Council refused to negotiate or consider the amended plans, contrary to paragraphs 186-7 of the National Planning Policy Framework (NPPF). Secondly, that the Council has been inconsistent because it had granted permission for the change of use of Braemar Court Nursing Home (a Class C2 use) whilst it refused this application.
3. Thirdly, the Council was clearly unreasonable in giving significant weight to the loss of the C2 use but only modest weight to the need for boost the C3 housing supply in the Borough, especially in view of the Braemar Court decision. And lastly, the appellant claims that the Council's Tree Officer was satisfied with the proposals and so the Council's fourth refusal reason is unjustified.

The response by Guildford Borough Council

4. The Council responds to these grounds as follows. First, that it consistently drew the appellant's attention to its concerns about the loss of the C2 use, the adverse effect of the proposed development on the character and appearance of the area and amenity impacts at pre (and post) application stage. Secondly, there are material differences between Braemar Court and this site, which makes the comparison invalid.
 5. Thirdly, the Council must consider each case on its merits and is entitled to exercise its judgement in terms of the weight to be attached to the loss of the
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C2 use and the benefits of the proposed housing. And lastly, the Council clearly sets out its justification for its fourth refusal reason in the 'Quality of the living environment' section of its Committee report.

Reasons

6. First, the evidence of pre-application discussions convinces me that the Council consistently outlined its concerns regarding the proposed development. In the light of this I do not consider it to have been unreasonable in refusing to accept amended drawings during the course of the application, especially given the targets for efficiently dealing with applications that Local Planning Authorities are subject to.
7. Secondly, Braemar Court is a Victorian building which was no longer functional to use as a modern care facility because it needed a lift to provide access to the upper floors which would have resulted in the loss of up to 5 bed spaces in a facility which had only 19 bed spaces; this would have affected its income and hence future viability. Under these circumstances, which are very different from those at this site, the Council appears fully justified in allowing the loss of that C2 use. Consequently I do not agree that it has been inconsistent in its decision making on this issue.
8. Thirdly, because each application must be considered on its own merits the Council is entitled to make a judgement on how much weight to give to the various harms and benefits in each case. For the above reasons it was fully justified in attributing significant weight to the loss of the C2 use and modest weight to the benefits of the delivery of new homes in this case. The fact that I disagree with it for the reasons set out in the decision does not detract from its reasoned justification.
9. And fourthly and lastly, I agree with the Council that its Committee report, and indeed its appeal statement justify its fourth refusal reason. Its new Tree Officer also highlighted additional concerns in relation to the proximity of other trees to some of the proposed dwellings at the Hearing. This was not unreasonable given that he was not in post at the time the earlier documents were written.
10. For all these reasons I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Nick Fagan

INSPECTOR