
Costs Decision

Site visit made on 4 January 2017

by R J Marshall LLB DipTP MRTPI

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

Decision date: 13 February 2017

Costs application in relation to Appeal Ref: APP/R3650/W/16/3160237 Shortfield House, Hamdash Lane, Frensham, Farnham, GU10 3AU

- 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 Mr and Mrs Wicks for a full award of costs against Waverley Borough Council.
 - The appeal was against the refusal of planning permission for erection of 3 new dwellings.
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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 key ground on which the Council refused planning permission was on the harm it considered that the proposed development would cause to the character and appearance of the area. On this, contrary to the view of the appellants, I consider that the Council provided substantial evidence in justification of its decision. It referred to the size of the proposed building plots, the bulk of the proposed buildings and the characteristics of development nearby including that of 2 houses under construction. This evidence cannot be characterised as the type of vague, generalised or inaccurate assertions unsupported by objective analysis that can lead to costs being awarded.
4. The Council may have been unwise in referring to Policy C2 of the Waverley Borough Local Plan 2002 (LP) in its decision given that it refers to the protection of the countryside for its own sake. For this is terminology not used in the National Planning Policy Framework (the Framework). However, this does not make its stance unreasonable because LP Policies C3, D1 and D4 taken together require new development to protect the character and appearance of this area and be in keeping with its surroundings. These Policies provide support for refusing permission which would cause the harm that the Council alleges.
5. There is no reference in the Council's decision notice, or its appeal statement, to balancing the harm that it found against the benefits of the proposal. Amongst other things such balancing can lead to a determination as to whether a proposed development is, in terms of the Framework, sustainable and on

which there is a presumption in favour of development. However, I do not find this lack of a specific reference for the need for this balancing exercise to be undertaken an indication that the Council acted unreasonably. In the Officer's Committee report, recommending permission, reference was made to balancing harm against benefits. This suggests that implicit in the Council's decision, albeit not expressly stated, was that a different approach was taken to the balance. And although in my overall balancing I came to a view that compliance with LP Policies C3, D1 and D4, and the benefits that the proposed development could bring, justified the proposal I do not consider the Council's contrary approach to be unreasonable.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that an award of costs is not justified.

R J Marshall

INSPECTOR