
Costs Decision

Site visit made on 20 February 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 03 March 2017

Costs application in relation to Appeal Ref: APP/L3625/W/16/3162670 8 Pilgrims Way, Reigate, Surrey RH2 9LG

- 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 Reigate & Banstead Borough Council for a partial award of costs against Galaxy Ltd.
 - The appeal was against the refusal of planning permission for the erection of two detached dwellings, garaging, parking and associated access.
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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. I accept that there is a degree of confusion in this application as to what the applicant was seeking permission for. This is not assisted by the ambiguous language that is used in the design and access statement and covering letters. I also accept that at no point did the applicant point out that there were changes in the plans and that this would have assisted in ensuring there was no confusion. In validating and considering the development proposals before it the Council would reasonably have been expected to review all the information submitted and to come to a conclusion as to what was before it for a determination. To suggest that it has incurred additional expense due to the time and effort to forensically review the case file suggests that at the point in time of the determination it was not in a position to have fully understood what was before it. That is not a reasonable or sustainable position and any costs associated with such activities would not be unreasonable as the Council should reasonably have been in a position to understand what was before it.
 4. The Council suggest that the appellant has not engaged or co-operated in providing information or in discussing the application or appeal and that they have provided information that is manifestly inaccurate. On the second point the information on the plans is not inaccurate the dispute is related to which plans should be taken into account. The Council further contend that they had offered to discuss a new application. I do not see evidence of that in the e-mails provided, only a request for a discussion, but this is in the context of a defensive and robust position being adopted that the fault lay with the
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applicant. In those circumstances the appellant judged there would be no reasonable prospect of finding a conclusion.

5. The application could have been made in clearer terms and when the amended plan was submitted the changes to the scheme identified; this would have avoided many of the issues. Whilst this is in part a cause of the problem it does not amount to unreasonable behaviour. The appellant's position insofar as the plans it submitted is clearly made in its statement of case and whilst this may have led to frustration on the part of the Council that there was a lack of engagement the appellant's position was clearly stated.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Kenneth Stone

INSPECTOR