
Costs Decision

Site visit made on 14 February 2017

by David Cliff BA Hons MSc MRTPI

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

Decision date: 13 March 2017

Costs application in relation to Appeal Ref: APP/P1750/W/16/3164317 Ground Floor Rear, 41 Victoria Road, Farnborough GU14 7PA

- 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 Gary Reid (Flag Associates) for a full award of costs against Rushmoor Borough Council.
 - The appeal was against the refusal of an application for planning permission for change of use of rear ground floor from A2 to residential use with minor external alterations.
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Decision

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

Reasons

2. Planning Policy Guidance advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. Whilst I have concluded differently to the Council on the parking issue and have favoured the appellant's case on this matter, I do not consider that its objection on such grounds amounts to unreasonable behaviour.
 4. Policy CP16 of the Rushmoor Core Strategy includes the requirement that parking is provided in accordance with the Council's adopted standards. Principle 5 of the Council's Car and Parking Standards Supplementary Planning Document (2012) requires the provision of at least one car parking space per dwelling. The Council also argues that it considers that a residential use is different to the existing office use in terms of the nature of parking that would result.
 5. In this case, given the particular circumstances set out in my appeal decision, I consider that it would be acceptable for the proposed dwelling to have no on-site parking provision. Nevertheless, in the context of the development plan and other material considerations including the National Planning Policy Framework, whilst I have come to a different view on the merits, I do not find that the Council's refusal of the application on this basis amounts to unreasonable behaviour.
 6. The appellant refers to the Council's previous decision at 41 Victoria Road where permission was granted without parking provision. Whilst, I find shortfalls in the Council's argument as to why that case was allowed without
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parking provision, it remains necessary for the current proposal to be considered on its merits against the provisions of the development plan and any relevant material considerations.

7. I do not therefore consider that the Council has unreasonably delayed or prevented development which should otherwise have been clearly permitted.
8. The appellant also states that it reserves the right to add to the costs claim in respect of any future costs that may be incurred following dismissal of the appeal on Thames Basin Heath Special Protection Area (TBHSPA) grounds. However, I consider that costs claims can only relate to costs that have already been incurred and not to events that may take place in the future. I have also found that the proposal, including the submitted unilateral undertaking, has not satisfactorily demonstrated how it would mitigate against the likely affects that would result upon the integrity of the TBHSPA.
9. I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. An award of costs is therefore not justified.

David Cliff

INSPECTOR