
Costs Decision

Site visit made on 15 May 2017

by Jonathan Manning BSc (Hons) MA MRTPI

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

Decision date: 6 June 2017

Costs application in relation to Appeal Ref: APP/A1720/W/17/3169065 52 Church Road, Locks Heath, Southampton, SO31 6LQ

- 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 Regal Homes Ltd for a full award of costs against Fareham Borough Council.
 - The appeal was against the refusal of planning permission for erection of detached two bedroom bungalow with car port and parking.
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Decision

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

Reasons

2. The Government's Planning Practice Guidance (PPG) at Paragraph 030 (Reference ID: 16-030-20140306) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The appellant is of the view that the Council has behaved unreasonably in a substantive way.
 3. The appellant suggests that the Council has behaved unreasonably by: stating that there is an 'in-principle' objection to tandem development, which in the appellant's view, is in direct conflict with its Council's Design Guidance Supplementary Planning Document (the SPD); taking the view that the size of the plot would be uncharacteristically small; and taking the view that the proposed plot-to-building ratio of the proposed dwelling would be uncharacteristic. The appellant maintains that these matters led the Council to misdirect itself at the time of the determination of the application.
 4. Paragraph 049 (Reference ID: 16-049-20140306) of the PPG sets out the types of substantive behaviour of a local planning authority that might lead to an award of costs against them, this includes: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failing to produce evidence to substantiate its reason for refusal at appeal; and relying on vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. I consider that these examples are most applicable to this costs application.
 5. It is clear that the appellant's concerns in relation to plot size and plot-to-building ratio relate to the consideration of the effect of the proposal on the
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character and appearance of the area. This is a highly subjective matter and the Council has provided a significant level of reasoning to support their views on such matters. Simply because the Council disagree with the views of the appellant on the proposal's relationship with the character and appearance of the surrounding area, which are clearly explained, is not grounds for unreasonable behaviour. Further, as set out in the appeal decision, I agree with the Council that the scheme would result in harm to the character and appearance of the area. Given all of this, I find no unreasonable behaviour on the Council's part in this regard.

6. The Council has stated within its appeal statement that there is '*...an 'in principle' objection to the development of the site as a tandem backland plot*'. Whilst this statement in isolation could be, as the appellant has suggested, interpreted as a submission that all backland development is inappropriate, which would be contrary to development plan policy and other guidance, such as the SPD, I do not consider that this is the case. Rather, it appears to be a slightly unfortunate use of words and is not what the Council intended to portray. Indeed, the next sentence of the Council's appeal statement states '*Whilst there is no exception to the development of garden land within the local plan not all sites will be suitable and it is therefore necessary to consider the characteristics of the surrounding area*'. It is clear from the Council's evidence that this assessment was undertaken and the proposal was deemed to be unacceptable. Consequently, I do not find any unreasonable behaviour in relation to this matter.
7. Given the above findings, I am not of the view that the Council has acted unreasonably: by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; by failing to produce evidence to substantiate its reason for refusal at appeal; by relying on vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; or in any other regard.

Conclusion

8. For all of the reasons set out above, I consider that the Council has not acted unreasonably, as set out in Paragraph 049 (Reference ID: 16-049-20140306) of the PPG. Therefore an award of costs is not justified.

Jonathan Manning

INSPECTOR