



Costs Decision

Site visit made on 18 July 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 9th August 2017

Costs application in relation to Appeal Ref: APP/L3625/W/17/3170358 48 Meath Green Lane and Greenfields, Greenfields Close, Horley

- 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 Ian Sinclair for a full award of costs against Reigate and Banstead Borough Council.
 - The appeal was against the refusal by the Council to grant planning permission for the removal of condition 4 attached to planning permission Ref 16/01111/F.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the PPG) advises¹ 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. A full award of costs is sought by the applicant and the application has been made on a substantive basis. The applicant contends that the Council acted unreasonably in refusing to remove condition 4 imposed on planning permission 16/01111/F (the permission). The grounds for that contention being that it was unreasonable for condition 4 to have been imposed in the first instance and then for the Council to have subsequently refused permission for its removal. It is alleged that condition 4's imposition was unreasonable because it seeks to control what might happen following the permission's implementation rather than address the specific impact of the development granted permission.
4. Condition 4 precludes alterations being made to the replacement outbuilding subject to the permission and also removed Class E permitted development (PD) rights to construct further outbuildings within the grounds of the properties subject to the permission. The reason for condition 4's imposition, while not being clearly stated on the decision notice for the planning permission, relates to the Council's concern that further development would be harmful to the setting of the houses subject to the permission, which have been locally listed by the Council.
5. In determining the appeal I have found that there would be limited scope for the development of the nature precluded by condition 4 to adversely affect

¹ PPG Paragraph: 028 Reference ID: 16-028-20140306

the setting of the locally listed buildings. I consider the Council in imposing condition 4 and then determining application 16/02870/S73 failed to have proper regard to what development, in practical terms, might be possible utilising PD rights. In my opinion that led to any possible adverse effect on the setting of the locally listed buildings being assessed on an overstated basis. I therefore consider that permission for the development without compliance with condition 4 was unreasonably withheld. In connection with the appeal I am also of the opinion that the Council has failed to present evidence substantiating the need for condition 4's imposition.

Conclusion

6. Having regard to the provisions of the PPG, most particularly paragraphs 028, 030, 032 and 049 (the second and third bullet points), I conclude that it was unreasonable of the Council to have refused planning permission for condition 4's removal. That decision has resulted in the applicant incurring unnecessary and wasted expense in submitting its appeal. An award of costs is therefore justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Reigate and Banstead Borough Council shall pay Mr Ian Sinclair, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in making its appeal; such costs to be assessed in the Senior Courts Costs Office if not agreed.

Grahame Gould

INSPECTOR