



Costs Decision

Site visit made on 2 October, 2017

by C. Jack, BSc(Hons) MA MA(TP) MRTPI

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

Decision date: 31st October, 2017

Costs application in relation to Appeal Ref: APP/Y3615/W/17/3178962 Annfield House, 5 Maori Road, Guildford, GU1 2EG

- 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 Searchfield Homes for a full award of costs against Guildford Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 7 dwellings together with alterations to vehicular access, car parking and landscaping following demolition of existing dwelling.
-

Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the 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. The application for costs essentially relied on behaviour by the Council in determining the planning application. Specifically that in relation to reason for refusal 1 (RfR1) the Council failed to give due weight to the advice of the local highway authority in pursuing a highway safety reason, and that the Council exaggerated and failed to demonstrate the potential harm the proposal would cause in relation to the character and appearance of the area. Furthermore, the applicant considers that in reason for refusal 2 (RfR2) the Council relied on subjective judgements about noise and disturbance to the neighbouring property, 8 Easington Place (No 8). The applicant also identifies that the Council determined the application against the professional advice of its planning officers, without evidencing the reasons for refusal as required.
4. The PPG sets out examples of unreasonable behaviour by local planning authorities including unreasonably refusing a planning application thus preventing or delaying development, and generalised reasons for refusal, unsupported by evidence. In this case RfR1 and RfR2 were generally complete, precise, specific and relevant to the application. They clearly stated the development plan policies of the development plan that the Council found the proposal to conflict with. The reasons for refusal were substantiated by the Council in its Statement of Case for the appeal, which explained its reasoning for each RfR. The Council's reasoning generally had regard to relevant development plan policies and associated supplementary guidance and documents, taking account of the particular circumstances of the case.

5. In respect of RfR1, I am not persuaded that the Council pursued a highway safety objection and it is clear that highway safety is not specified in the reason itself. Instead, it linked its concerns in relation to the access for use by emergency vehicles with its wider concerns about overdevelopment and cramped layout. Notwithstanding that I disagreed with the Council in finding no harm in this regard in my appeal decision, I am satisfied that the Council did not attempt to unreasonably pursue a highway safety reason for refusal against specialist advice, or that it later failed to substantiate the basis of its reasoning at the appeal.
6. The Council's decision notice is dated 23 May, 2017. The applicant's Environmental Noise Survey and Noise Impact Assessment Report submitted with the appeal is dated 21 June, 2017. It is therefore apparent that this technical document was not available to the Council at the time of its decision on the application. I am therefore satisfied that the Council's concerns relating to noise and disturbance to No. 8 were not unreasonable, having been made on the basis of the relatively limited evidence available to it at the time of its decision. In respect of bin odour, limited evidence was available with the application, or the appeal, and therefore I am similarly not persuaded that it has been demonstrated that the Council's judgement in this regard, albeit largely subjective, was demonstrably unreasonable.
7. I note that the Council's officers recommended that planning permission should be granted, but Council Members did not agree in refusing the application. Members do not have to accept the advice of their officers and, in this case, they considered that the effect of the proposal on the character and appearance of the area, particularly from Cross Lanes, and on the living conditions of occupiers at No. 8, were material planning considerations in this case and attributed greater weight in these regards than their officers. The apportionment of weight is a matter for the decision maker. Notwithstanding that I came to the alternative view, with the benefit of the additional evidence provided by the applicant to the appeal, on balance I am of the view that the Council has not behaved unreasonably or relied upon reasons for refusal unrelated to the merits of the case.
8. I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. For this reason, and having regard to all matters raised, an award of costs is therefore not justified.

Catherine Jack

INSPECTOR