



Costs Decision

Site visit made on 13 November 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 29th November 2017

Costs application in relation to Appeal Ref: APP/C3620/W/17/3181196 Westbourne House, 13 Horsham Road, Dorking RH4 2JL

- 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 Proseed Property Ltd for an award of costs against Mole Valley District Council.
 - The appeal was against the refusal of planning permission for 'demolition of existing garage and erection of 1 No. detached dwelling with associated parking and landscaping on land at rear. Removal of front extension and side steps to existing house'.
-

Decision

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

Reasons

2. 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 or wasted expense in the appeal process.
3. The Council's officer recommended the scheme, but members turned it down. The refusal reason indicates that the Council consider the proposed dwelling would be a cramped form of development out of keeping with the character of the area. The refusal reason also indicates that the Council consider that the proposed development would be detrimental to the amenities of the adjoining property, 14 Horsham Road, in terms of overbearing impact and loss of privacy due to openable upper floor windows in the eastern elevation of the proposed dwelling.
4. It is of course open to Council members to come to a different conclusion to their officers but the Council must give adequate reasons for its decision. In this case the Council did not provide a statement of case. Paragraph 49 of the National Planning Policy Guidance relating to appeals indicates that unreasonable behaviour can include the 'failure to produce evidence to substantiate each reason for refusal on appeal'.
5. In this case the Council did not provide any cogent evidence or explain how it reached its conclusions in relation to those matters set out in its refusal reason. Notwithstanding any planning or appeal history relating to the appeal site, the Council has not substantiated its reason for refusal in this particular case. This amounts to unreasonable behaviour and the appellant incurred the unnecessary cost of going to appeal.

6. I therefore find that unreasonable behaviour resulting in unnecessary expense has been demonstrated and that a full award of costs is 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 Mole Valley District Council shall pay to Proseed Property Ltd, the costs of the appeal proceedings in respect of those matters outlined above; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Mole Valley District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Nicola Davies

INSPECTOR