



Costs Decisions

Site visit made on 4 July 2019

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2019

Costs applications in relation to Appeal Ref: APP/Y3615/W/18/3208075 The Bungalow, Send Hill Farm, Send, Surrey, GU23 7JJ.

- These applications are made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - Application A is made by Guildford Borough Council for a full award of costs against Mr Russell Elrick and application B is made by Mr Russell Elrick for a full award of costs against Guildford Borough Council.
 - The appeal was against the grant subject to conditions of planning permission for an *Outline application for redevelopment of about 0.49 hectares of "previously developed" Green Belt land to include retention of existing access and creation of new access off Potters Lane, erection of one replacement dwelling and up to three new dwellings, erection of one replacement workshop, retention of limited areas of hardstandings and construction of some new hardstandings, demolition of specified existing buildings, structures and residual hardstandings, phased to coincide with occupation of their relevant replacements. All matters reserved except access and details of the workshop in terms of appearance, siting and scale.*
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Decisions

1. The applications are refused.

Reasons

2. The Planning Practice Guidance advises that parties in appeal proceedings normally meet their own costs, but costs may be awarded against a party who has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. There has been very considerable correspondence between the main parties (much of which has been quite fractious) before and during the determination of the application, as well as throughout the appeal process. It is clear that the main parties feel frustrated by some of each other's actions.
4. However, it is not for me to arbitrate in the numerous claims and counter claims of 'who said what or did what' in the lead-up to the appeal. Moreover, in this instance, where the issue was straightforward, had the main parties adopted a more proportionate and concise approach, the appeal process would have been less protracted and costly for all.

Application A

5. Numerous planning applications have been submitted on behalf of the appellant, including some for reserved matters which have subsequently been approved. Some of these and discussions/correspondence between the main

parties resulted in the appellant no longer pursuing aspects of the appeal. However, that is not to say that when the appeal was made it was unnecessary or that it had no reasonable prospect of success.

6. An appeal should only be submitted as a last resort. Nevertheless, the appellant was engaged in correspondence and discussions with the Council throughout the appeal process in an attempt to either obtain approval for those matters that were in dispute and/or narrow the areas of disagreement. He did not act unreasonably by appealing some of the disputed conditions that were subsequently addressed by later applications. I have also found that some of the conditions should be deleted and/or replaced with more suitably worded conditions. The Council was not therefore put to unnecessary or wasted expense in responding to the outstanding areas of dispute with the appellant.

Application B

7. The Council's actions in failing to process another application and in issuing a Temporary Stop Notice are not matters for my consideration. Whilst I have found that some of the disputed planning conditions do not meet all of the relevant tests, there is no cogent evidence to demonstrate that the Council actions caused the appellant to incur unnecessary or wasted expense.
8. I have found that as a result of subsequent applications and discussions between the main parties some of the disputed conditions should be deleted and/or replaced with other more suitably worded conditions. However, that was not due to unreasonable behaviour by the Council. The evidence indicates to me that the Council was endeavouring to safeguard important planning interests rather than undertaking any punitive action against the appellant.

Conclusion

9. Whilst in this instance the combative approach of the main parties was unfortunate, the evidence does not demonstrate that their behaviour resulted in the opposing party incurring unnecessary or wasted expense during the appeal process. I therefore conclude that neither application should succeed.

Neil Pope

Inspector