



Costs Decision

Site visit made on 5 June 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 26 July 2019

Costs application in relation to Appeal Ref: APP/L3625/W/19/3223793 131 London Road North, Merstham, Surrey RH1 3AL

- 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 Muhammad Daood for a full award of costs against Reigate & Banstead Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for extension of existing house and conversion into 5 self contained flats of 5 x 2B. Together with the construction of 2 outbuildings to form 2No. x 1B/2P detached units. Demolish existing garages and form 8 parking spaces along with bicycle and refuse storage areas.
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Decision

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

Reasons

1. The Planning Practice Guidance advises 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.
2. The applicant claims that the Council has acted unreasonably on grounds which I generally summarise as:
 - 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; and
 - not determining similar cases in a consistent manner.

Reasons

3. The applicant states that the development should have been approved on account of the fact that the scheme would be acceptable within the Surrey Hills Area of Outstanding Natural Beauty (the AONB), the outbuildings could be constructed as permitted development, and there would be no additional effect on openness.
4. As outlined in the main Decision, and further detailed in the National Planning Policy Framework, considerations with regard to the AONB differ from those applicable to the Green Belt. As such the acceptability of a proposed development in one regard, cannot be held to indicate acceptability in the other. The Council did not therefore act unreasonably in reaching a different conclusion with regard to the differing effects of the development on each.

5. The proposal included the construction of 2 detached houses, not 2 outbuildings. The Council however considered the existing scope to construct outbuildings in assessing the planning application, and whilst such scope may exist, and whilst the effect on openness might potentially be similar, this does not however alter the fact that the construction of the proposed houses would be inappropriate in Green Belt terms.
6. In then taking permitted development rights into account as an other consideration in favour of the scheme, the Council was entitled to attach weight as it saw fit within the overall planning balance, and, as set out in the main Decision, I agree that this consideration carried limited weight.
7. As such, and taking into account the fact that I have dismissed the appeal, the Council did not prevent or delay development which should clearly be permitted.
8. With regard to consistency, the applicant states that the unit sizes have already been approved, are of adequate size, and that the layout and design would give rise to no adverse effects on living conditions.
9. The appeal scheme is however not exactly the same as the previously approved scheme, reference 18/01646/F. Furthermore, the Council was entitled to attach significant weight to emerging policy within the Submission Development Management Plan 2018-2027 May 2018, which specifically requires compliance with the nationally described internal space standard. Both the proposed development and the context within which it was assessed therefore differed to that of the previously approved scheme. Reasonable scope thus existed for the Council to reach different conclusions, even where some aspects of the 2 schemes were similar. As such the Council did not act unreasonably with regard to the consistency of its decision making.
10. Finally, though I may have found that the adverse effects on privacy identified by the Council would not arise, the scheme would nonetheless fail to provide acceptable living conditions for future occupants of the development. The Council did not therefore act unreasonably in refusing planning permission on grounds that the development would provide unacceptable living conditions.

Conclusion

11. For the reasons set out above I conclude that the Council did not act unreasonably on the grounds claimed by the applicant. As such it has not been demonstrated that the applicant incurred unnecessary or wasted expense in the appeal process. The application for costs is therefore dismissed.

Benjamin Webb

INSPECTOR