
Costs Decision

Site visit made on 17 June 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2019

Costs application in relation to Appeal Ref: APP/R0335/W/19/3223724 Sandhurst Lodge, Wokingham Road, Crowthorne RG45 7QD

- 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 Charles of Fellbon Property Company Ltd for a full award of costs against Bracknell Forest Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 5no. detached 5-bed houses.
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Decision

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

Reasons

2. Planning Practice Guidance 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 applicant considers that the Council delayed its determination of the planning application by continually raising unnecessary new issues. It must first be noted that my considerations are necessarily restricted to the Council's behaviour with respect to only the appeal proposal before me. I can however consider the substance of the Council's reasons for ultimately refusing to grant planning permission and whether these reasons were properly substantiated so as not to generate unnecessary expense at this appeal stage.
4. With respect to the effect of the proposal on trees, it is apparent from the evidence before me that the Council's Tree Officer, in their role as a specialist internal consultee, expressed concerns with respect to the effect upon specific trees located within the site. This is despite the submission to the Council of amended documentation during the planning application process. In this context and noting the proximity to mature trees to various proposed works that would be anticipated to involve excavation, it was reasonable that the Council came to the conclusions that it did. This is notwithstanding professional opinions put forward to the contrary and any conclusions reached on the planning appeal to which this costs application relates.
5. In terms of the effect of the proposal upon biodiversity, it is also the case that a specialist internal consultee (the Council's Ecology Officer) raised specific concerns at various points during the Council's determination of the planning application. Whilst again noting that it is not my responsibility to assess the Council's behaviour during the progression of the planning application, it is

apparent that the Ecology Officer's concerns had not been fully addressed when the application was determined.

6. In light of the tree removals proposed, albeit limited in number, and the potential for the proposed development to conflict with further specimens intended to be retained (due to the proximity of intended works and the incorporation of trees within private garden areas), it was reasonable, I consider, for the Council to consider that the proposal could have a negative effect upon woodland habitat.
7. It is also apparent from the evidence before me that further survey work, with respect to bats and badgers was undertaken in August 2018 and November 2018 respectively. The results of these surveys did not, I understand, form part of the baseline information submitted during the planning determination period. This further work supports the applicant's planning appeal and was undertaken in the interests of addressing particular concerns raised by the Ecology Officer and of ensuring that a specific tree (T60A) had been subject to an appropriate level of survey effort in accordance with best practice guidance. Indeed, T60A is depicted for retention on the plans considered by the Council. It is evident that the further survey work undertaken provides greater clarity with respect to potential effects upon protected species.
8. Notwithstanding professional opinions put forward to the contrary and any conclusions reached on the planning appeal to which this costs application relates, I am satisfied that the Council behaved reasonably in identifying adverse impacts on protected species that may not have been appropriate to deal with by way of planning condition(s). This is based on the evidence that I understand was before the Council at the point in time of their determination of the planning application that is now the subject of this appeal.
9. I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Having had regard to all other matters raised, an award of costs is therefore not justified.

Andrew Smith

INSPECTOR