



Costs Decision

Site visit made on 24 July 2019

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2019

Costs application in relation to Appeal Ref: APP/R3650/W/18/3212580 15 Crondall Lane, Farnham GU9 7BG

- 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 Mrs Philly Hook for a full award of costs against Waverley Borough Council.
 - The appeal was against the refusal of an application for planning permission for a detached dwelling.
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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. PPG also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded.
4. The crux of the applicant's case in seeking an award for costs appears to be grounded in substantive matters. Namely that they feel the Council have failed to substantiate their reasons for refusal, relied on irrelevant policies to do so and attached insufficient weight to a perceived fallback position. I shall aim to address each matter in turn but there may be some overlap.
5. The Council refused planning permission for two reasons. The first concerned the effect of the scheme on the character and appearance of the area. The decision notice refers to the creation of a new planning unit and the resulting built form associated with it being harmful. Roughly 1 ½ pages of the delegated officer report is devoted to consideration of these issues, it being sufficiently clear to me that the officer recognised that outline planning permission was sought but it was the siting of an independent dwelling on part of a sub divided garden that was the key area where the harm would be caused.

6. The harm found by officers is then linked to the relevant policies of the development plan which included the Farnham Neighbourhood Plan. These policies are referred to in the applicant's costs claim as not being directly relevant to the character and appearance issue.
7. Whilst I agree that the cited policies concern themselves with design and appearance, they are equally clear that due consideration should be given to the effect of a given development on the visual character and distinctiveness of a locality and one that integrates well with a site and compliments its surroundings. It seems sufficiently clear to me that the Council have considered how the siting of a dwelling on the site would not meet these policy objectives.
8. On the matter of the Thames Basin Heaths Special Protection Area (TBHSPA) the Council included a second reason for refusal given that the applicant did not enter into a planning obligation to secure the necessary mitigation to provide alternative space provision to offset the pressure on the designated area for recreational use. The pressure that would arise, according to the Council's evidence, from occupiers of the proposed dwelling.
9. It is the applicant's view that the Council were premature in refusing planning permission on this ground given the number of bedrooms or size of the dwelling was not known. I am unsure on the strength of the evidence before me as to whether this information needs to be known for the Council to be able to calculate a reasonable and proportionate contribution towards the aforementioned mitigation. It does not strike me as impossible however for an obligation to be drawn up that identifies a commitment to make the contribution once the type or size of the dwelling is a known variable or indeed agree a commuted sum regardless. In any case, it appears equally clear to me, as I have set out in my other decision, that even if such an obligation were to be produced and accepted it would not overcome concerns with regard to the scheme's effect on the character and appearance of the area.
10. The applicant contends that the Council did not place sufficient weight on the perceived fallback position. This being, as far as I can see, the certificates of lawful development I have referred to in my other decision. These were for the establishment of a new vehicular access and a static caravan ancillary to the dwelling. It is perhaps important to point out that apportioning weight, and specifically the amount of, is a matter for the decision maker in each case. From the Council's evidence it appears sufficiently clear to me that they considered these certificates as well as previous decisions on the site and came to a balanced view. As indeed have I in my other decision.

Conclusion

11. With the above in mind, I find that the Council has not acted unreasonably and thereby caused the applicant to incur unnecessary or wasted expense. A claim for costs is not therefore justified. Accordingly, it is hereby refused.

John Morrison

INSPECTOR