
Costs Decision

Site visit made on 10 December 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2020

Costs application in relation to Appeal Ref: APP/C1760/W/19/3234168 Land adjacent The Ridges, Crampmoor Lane, Crampmoor S051 9AJ

- 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 Leo Hookway for a full award of costs against Test Valley Borough Council.
 - The appeal was against the refusal of planning permission for a proposed two bedroom dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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.
3. The applicant considers that the Council acted unreasonably through a lack of cooperation, delays in providing information and only supplying relevant information at appeal despite it being requested at application stage. It is contended that two of the behaviours listed in the PPG in relation to a substantive award against a Council are relevant in this case, including: a failure to produce evidence to substantiate each reason for refusal; and vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis.
4. Following pre-application discussions, the proposed dwelling was relocated away from root protection areas. It has been put to me that the Tree Officer did not re-assess the proposed development at planning application stage. However, the Tree Officer's comments on the planning application indicate that they reviewed the revised scheme and considered that there had been no material change and thus their previous comments remained pertinent. Although there may be a difference of opinion between the appellant and the Council about the effect of the development on trees, and assessing the effect may involve more than purely objective, technical matters, the evidence before me does not demonstrate a lack of cooperation.
5. At appeal stage, the Council substantiated its concerns, including with regards to trees. Although this included additional detail, additional arboricultural information was also submitted with the appellant's appeal statement. Rather than constituting a delay in providing information, the expanded detail provided

by the Council responds to the details provided by the appellant at appeal stage and comprises evidence to substantiate the relevant refusal reasons. It seems to me that the Council also provided clear advice during pre-application discussions and consistent, detailed reasons in relation to this matter when refusing the planning application.

6. The Council did not take the appellant's ecological appraisal report into account when making its decision on the planning application. However, the evidence before me indicates that the report was only available shortly before the Council made its decision. Given the limited time between the report's issue date and the decision notice, it seems to me that there was not sufficient time for the new information to be properly assessed by the Council at that stage.
7. Although the appeal site previously formed part of the plot to the north and the Council approved re-turfing of the site as part of a previously approved planning application, the evidence submitted in support of the appeal proposal indicates that various important species could be present on the site. It would not be justified or reasonable to overlook this information simply because of the approval of a different planning application. As the appeal site is also now separated from that other plot and approved scheme, the re-turfing of the site is unlikely to happen in any event. The Council's second reason for refusal is therefore reasonable and the Council clearly set out its reasons at planning application stage and substantiated its position at appeal, including responding to the latest ecological information available.
8. Although the appellant may disagree with the Council's findings, such disagreement does not mean that the Council behaved unreasonably. The Decision Notice sets out the reasons for refusal, which are clear, relevant to the planning application and based on conflict with the development plan. The Council's Officer Report considers the relevant matters and provides details covering each of the refusal reasons, while its appeal statement substantiates the relevant matters to support the Council's views.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Tobias Gethin

INSPECTOR