
Costs Decision

Site visit made on 4 February 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date:

Costs application in relation to Appeal Ref: APP/M3645/W/19/3238089 Sandiford House, 40 Stanstead Road, Caterham CR3 6AB

- 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 Habinteg Housing Association for a full award of costs against Tandridge District Council.
 - The appeal was against the refusal of planning permission for erection of terrace of 4 dwellinghouses with associated parking and amenity space and installation of lift shaft and associated refurbishment works to existing frontage building (amended plans).
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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.
3. The applicant contends that the Council's first reason for refusal is unsubstantiated and unreasonable and that the second reason for refusal could have been addressed by a question to the appellant's agent or officers during the Council's Committee meeting. They contend that the development should clearly be permitted, as it fully accords with local and national planning policies, notwithstanding the significant economic and social benefits that would flow. Furthermore, they contend that the Committee failed to understand the appellant's drawings in respect of the proposed access arrangements for the scheme.
4. Paragraph 49 of the PPG sets out that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include: 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; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and not determining similar cases in a consistent manner
5. It is well established that as a general principle a planning Committee is entitled to reach a different conclusion to their Officers. Nevertheless, it is the

- responsibility of the Council to substantiate each reason for refusal. The Council did not submit a statement of case for this appeal and the minutes of the Committee meeting only set out the reasons for refusal, without details of the discussion and debate that led to that decision being made. Some reasoning for the second reason for refusal was however provided as part of the Council's response to this application for costs. Nevertheless, the Council failed to substantiate its first reason for refusal and this was unreasonable behaviour.
6. Notwithstanding this, I have reached the same conclusion as the Council in terms of the impact of the proposed dwellings on the character and appearance of the area and resulting conflict with the specified policies of the development plan. I have also found that the benefits of the proposed dwellings would be outweighed by the harm. As such, the proposal is not development that should clearly be permitted.
 7. Furthermore, the applicant's grounds of appeal make it clear that they or their representative were present at the Committee meeting and their case is presented with specific reference to the proceedings. Therefore, they were able to understand and respond to the background to the reason for refusal and their grounds of appeal deals directly with those issues.
 8. Consequently, it has not been demonstrated that the appellant has been put to unnecessary or wasted expense in preparing their response to the first reason for refusal.
 9. Turning to the second reason for refusal, the drawings and other submissions for the appeal refer to a new entrance being created in the existing building. There are no annotations or other text to explicitly state that the existing entrance was only to be used as a secondary or emergency access however. As such, there was no obvious misunderstanding or misinterpretation of the drawings. Therefore, while I have reached a different conclusion to the Council on the impact of the proposal on the living conditions of the residents of Sandiford House, I find that the Council did not act unreasonably in determining the proposal based on the information submitted as part of the application.
 10. The applicant also raises concerns about how and when the wording of the reasons for refusal was agreed, and the Committee procedures whereby they were not able to address the Committee. These matters relate to the consideration of the application however, and are not within my remit in determining this application for costs.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, an award of costs is not justified.

L McKay

INSPECTOR