



Costs Decision

Site visit made on 28 January and 25 February 2020

by Jonathon Parsons MSc BSc(Hons) DipTP Cert (Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 May 2020

Costs application in relation to Appeal Ref: APP/D3640/W/19/3240411 84-100 Park Street, Camberley GU15 3NY

- 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 Ziyad Thomas (Renaissance Retirement) for a full award of costs against Surrey Heath Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of buildings on the site and the erection of 61 sheltered apartments with associated access, electric buggy/ cycle store, refuse bin store, landscaping and 61 car parking spaces.
-

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 PPG encourages all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case. It encourages local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay.
4. The planning application was recommended for planning permission by officers but it is entirely within the remit of Members to come to a different view from that of its professional officers. In these circumstances, the PPG states that an authority is expected to produce relevant evidence on appeal to support its decision. Although I have come to a different view on the merits of the proposal, it does not follow that unreasonable behaviour occurs.
5. The Council has precisely detailed its objections as the height, bulk and mass of the building's west elevation forming an unneighbourly relationships with neighbouring residential buildings in terms of overbearing and loss of privacy effects. In this regard, it has detailed the proximity of the neighbouring residential properties to the proposed apartment building and that the existence of a tree/vegetative boundary cannot be relied upon to provide an in-

perpetuity screen. It is brief but it does not need to be overly detailed given the nature of the living condition issues identified by the Council. Furthermore, they do involve some element of subjective judgement especially in relation to outlook and privacy. The appellant has carried out a technical scientific approach to assessing the living conditions issues but much of this relates daylight and sunlight, issues raised by third parties and not the Council.

6. The Council's evidence on the inadequate provision of amenity space is again brief but the Council statement has set out the external areas were limited given the number of units and that outside areas serve as an important social resource. It has referred to the relevant section of its Surrey Health Residential Design Guide Supplementary Planning Document (SPD) 2017. Although guidance, there are clearly specific sub sections within the SPD which the applicant would have had to comment upon once reference had been made to it. As the applicant acknowledges, not all aspects of the scheme are SPD compliant (although I have concluded acceptability in line with the applicant's comments). There is additionally some subjective judgement required in this assessment.
7. The Council has not re-assessed its case following the submission of the applicant's case but based on their evidence, there is no reason why they should have done so. Much of the applicant's evidence relates to issues not raised by the Council but third parties. The Council has come to a conclusion on outlook and privacy based and the Council has substantiated its reasons for refusal based on living conditions by providing relevant objective analysis as set out.
8. Reasons for refusal 2 and 3 related to affordable housing and the Thames Basin Heaths Special Area. Based on my decision, the applicant would have had to prepare and finalise appropriate legal undertakings to overcome the Council's objections in respect of these issues. In summary, the Council has not unreasonably prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
9. For all these reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Jonathon Parsons

INSPECTOR