
Costs Decision

Site visit made on 18 May 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2020

Costs application in relation to Appeal Ref: APP/Z3635/W/20/3244874 Land adjacent to 7 Maxwell Rd, Ashford, Surrey TW15 1RL

- 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 Barry Sutton for a full award of costs against Spelthorne Borough Council.
 - The appeal was against the refusal of 'outline planning for the erection of a new dwelling with associated parking and amenity space'.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant claims that the Council have behaved unreasonably in failing to have proper regard to the presumption in favour of sustainable development. However, I have no evidence to substantiate this claim. Moreover, I have had regard to the Council's evidence including the delegated officer report and consider that this shows adequate regard to the principles of planning and the presumption set out at paragraph 11 of the National Planning Policy Framework (the Framework).
4. The appellant highlights that the proposal was to establish access only at this stage. They consider that the Council's considerations unreasonably went beyond this. However, as set out within my Appeal Decision, the PPG¹ sets out that an application for outline planning permission allows for a decision on the general principles of how a site can be developed. Outline consent is the planning permission and it should be granted subject to conditions requiring the subsequent approval of one or more reserved matters. In order to establish the general principle, it is necessary to have regard to relevant material planning considerations, including the character and appearance of the area. Whilst I have found that the details of access pose no concern in regard to the character and appearance of the area, I consider it was reasonable for the Council to have regard to the wider impacts on character and appearance in order to establish the general principle of the proposal.

¹ Planning Practice Guidance, Paragraph 005 Reference ID: 14-005-20140306

5. Furthermore, the appellant considers that the Council's regard to the submitted illustrative site plan in support of the proposals was unreasonable. However, the very purpose of such details is to demonstrate how the site may ultimately be developed. Whilst illustrative details cannot be afforded full weight within the assessment of outline proposals, they are a material consideration. As set out within my Appeal Decision I find that due to the site constraints that there are very limited options for the layout of the proposal. The delegated officer report acknowledges that the plans are indicative. In such circumstances I consider that the Council have not behaved unreasonably in having had regard to the evidence submitted by the appellant in support of their proposals and subsequently, the weight that they have given this information.
6. Finally, the appellant implies that the Council have failed to act positively and proactively in their consideration of the matter. The Council highlight that the appellant did not engage in pre-application discussions. Additionally, they state that they do not enter into discussions when the principle of development is unacceptable. Had the appellant entered into pre-application discussions then it is likely that they would have received a negative response and been aware that any application would likely have been refused. Furthermore, it is clear from the evidence before me that the Council's concerns could not have been overcome through negotiation. As such, the lack of dialogue prior to the refusal of planning permission being issued does not amount to unreasonable behaviour.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

James Taylor

INSPECTOR