
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: 08 June 2020

**Costs application in relation to Appeal Ref: APP/T0355/W/20/3246613
Land adjacent 1 Woodside Road, Woodside Road, Winkfield, Windsor
SL4 2DP**

- 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 Kingsmead Homes for a partial award of costs against the Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of planning permission for a proposal described as the 'erection of detached two-storey dwelling'.
-

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 regard to their second reason for refusal. They state that the matter was introduced outside of the standard consultation period and the statutory determination timescales.
4. However, whilst it is regrettable that the matter was not raised earlier within the determination of the application, it is necessary for the Council to consider all relevant material considerations at the point that it makes its decision. Therefore, the Council behaved reasonably in taking into account the consultation response in their determination of the application as they were in receipt of it before making their decision. Furthermore, the Council indicate that this was not a matter that could have been resolved through further negotiation. As such, had the comments of been received earlier it would not have made any difference to the outcome of the planning application.
5. The appellant also states that the Ancient Woodland Inventory Review (dated June 2019) (Inventory Review) findings were not available for their consideration and that the site is not formally designated. That the Inventory Review was not available and appears to have informed the Council's decision is a concern. However, that the site is not formally designated, and the results of the Inventory Review have not been ratified by Natural England does not preclude the site from being considered as ancient woodland under the National

Planning Policy Framework definition within annexe 2. As such, I find no unreasonable behaviour in this regard.

6. Finally, I am mindful that within my Appeal Decision I have reached a contrary conclusion to the Council on the main issue that relates to the Council's second reason for refusal. However, I do not consider that the Council behaved unreasonably in reaching the conclusion that it did, rather a substantiated planning judgement was exercised, based on the evidence before them, including expert arboricultural comments and the recent Inventory Review. Furthermore, the Council's evidence also shows clear regard to relevant local and national policies and guidance. However, I have carried out a similar assessment, made my own judgement and reached a different conclusion
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