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## Costs Decision

Site visit made on 8 June 2020

**by Robert Parker BSc (Hons) Dip TP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 July 2020**

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### **Costs application in relation to Appeal Ref: APP/X0360/W/19/3243308 Land at Coombes Lane, Arborfield, Wokingham RG2 9JG**

- 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 Ms Sara Saund for a full award of costs against Wokingham Borough Council.
  - The appeal was against the refusal of prior approval for forestry storage shed.
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### **Decision**

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

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The application for an award of costs is predicated on the claim that the Council has prevented or delayed development which is acceptable in principle under permitted development rights. It is alleged that the appeal, and the effort involved in the appeals process, should not have been necessary.
4. The regulations<sup>1</sup> require the local planning authority to determine whether its prior approval will be required as to the siting, design and external appearance of the proposed building. Such determination must be made within a period of 28 days following date of receipt of the application, otherwise permission is granted by default. Where the local planning authority give notice that such prior approval is required, the applicant is required to display a site notice for a period not less than 21 days.
5. A decision that prior approval is required does not translate into a requirement for additional information to be submitted; it simply triggers the need for a site notice. Furthermore, the regulations make no provision for amendments to the scheme. Following the period for display of the site notice, the local planning authority is entitled to refuse to grant prior approval where it has outstanding concerns regarding the siting, design and external appearance of the proposed building. This decision involves the exercise of planning judgement.

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<sup>1</sup> Para E.2 of Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) Order 2015.

6. In this case, the Council followed this two stage process; firstly in notifying the appellant that prior approval was required, and secondly in determining that such approval was not given. The final notice of 12 December 2019 does not expressly state that prior approval is being refused but it is reasonable to read the notice as such.
7. The Council's letter of 18 November 2019 gave the appellant the option to submit further details or amend any details already submitted. This would have been an opportunity for the Council to request amended elevations and more detailed information, based on an accurate tree survey, to show the precise position of the building within the woodland. Although the failure to take this opportunity amounts to unreasonable behaviour I cannot be certain that the Council's concerns would have been addressed and the appeal avoided.
8. Ultimately, the decision was taken based on the plans submitted with the prior notification. This approach was in line with the regulations. Based on the information presented, I share the authority's concern that the siting, design and external appearance of the building would be unacceptable. It therefore follows that the decision to refuse prior approval was not unreasonable.
9. The Council's delegated report and statement of case give limited explanation of the authority's objection to the 'remoteness' of the building. However, given the lack of prescription within the regulations as to what considerations may be relevant to siting, this falls short of demonstrating unreasonable behaviour.
10. Overall, it has not been shown that the Council's actions have led to an avoidable appeal and there are no grounds on which to make an award of costs. I find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. I therefore refuse the application for an award of costs.

*Robert Parker*

INSPECTOR