
Costs Decision

Hearing Held on 30 June 2020

Site visit made on 30 June 2020

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 July 2020

Costs application in relation to Appeal Ref: APP/Z3825/W/19/3243352 The Mount, Ifield, Crawley RH11 0LF

- 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 Mrs Rosemary Bensley for a full award of costs against Horsham District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the erection of a detached dwelling, detached garage and associated landscaping.
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Decision

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

The submissions for Mrs Rosemary Bensley

2. The appellant has submitted her application for costs in writing so I will not reproduce that document here. However, the main points made are that the appellant considers that the Council was unreasonable in refusing the application. She submits that the grounds for refusal ignored material considerations and any objections could have been resolved through amendments to the scheme or could have been dealt with by conditions.
3. It is also submitted that the Council behaved unreasonably by accepting the recommendations of their Landscape and Environmental Health Officers who had not been consulted on the latest revisions to the scheme prior to the application being submitted.
4. The appellant also argues that she has been put to wasted expense through what is said to be the failure of the Council to agree the Statement of Common Ground (SoCG) within a reasonable timeframe. It is claimed that the Council behaved unreasonably in declining to agree uncontroversial facts and that this led to wasted time during the course of the appeal.

The response by Horsham District Council

5. The Council has also put its response in writing but submits that, whilst the scheme was recommended for approval, the development control committee was entitled to take a different view to its planning officer. The SoCG is considered to contain many items that were not relevant to the matters to be discussed at the Hearing and the Council were under no obligation to necessarily respond to them. In any event, the discussion at the Hearing on the matter did not take up a significant amount of time.

Reasons

6. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. The application for an award of costs at appeal can be based on procedural matters or substantive matters, as claimed by the appellant in this case, that relate to the planning merits of the case.

Reasons for refusal

7. The appellant's professional team went through the recommended route of seeking pre-application design advice and the scheme was developed through consultation with a design review panel (Design South East). The panel considered that the quality of the scheme was such that it met the exceptional design quality required by paragraph 79 of the National Planning Policy Framework (the Framework) which sets the criteria that applications for isolated homes in the countryside should meet before planning permission for them is granted.
8. The starting point for the consideration of any planning application is the adopted Development Plan and, in Horsham District, this limits development outside the defined settlement boundary, which is where the appeal site is located. If there is conflict with the Plan, there would need to be material considerations sufficient to outweigh the presumption against the development.
9. Although the design review panel considered the design met the required standard, the Council note that after the third review there were still concerns expressed and that when the scheme was finally signed off, the panel did not give any detail to support their change of view. The Council members are entitled to take a different view to that of their officers and the recommendations of the design review panel are purely advisory.
10. For the reasons set out in the main Decision, I have also concluded that the design does not meet the high standard required by paragraph 79 and as, in other respects, there is conflict with the Development Plan, the appeal should not succeed. I have not necessarily agreed with all the points raised by the Council but, in the main, my reasons are largely consistent with those expressed by the planning committee. I therefore find that it was not unreasonable for the elected members to overturn the recommendations of their planning officer and the design review panel and refuse the application.

Consultations

11. Since the application was refused and the case taken to appeal, the Landscape and Environmental Health Officers have had the opportunity to consider the scheme and revise any objections they might have originally held. They have not changed their views and the Council has continued to defend both the original reasons for refusal at appeal. As noted above I have not agreed with every point raised to support these objections, but the appeal has nevertheless still been dismissed on the broad grounds raised in the original refusal notice. It is therefore not the case that the appeal process could have been avoided if the Officers in question had been re-consulted on the final revisions to the proposals.

Statement of Common Ground

12. A draft SoCG was prepared by the appellant's team and submitted to the Council for comment. Prior to the Hearing, the Council responded with objections to the inclusion of some paragraphs and did not specifically agree to the inclusion of others.
13. In order to make clear what was fact and what the Council considered to be points that were either irrelevant or disputed, the SoCG was discussed at the outset of the Hearing. The parties' stance on the various topics was clarified in relatively quickly and the business of the Hearing was concluded within the expected time frame. I therefore find that the Council's actions did not prolong the Hearing unnecessarily or cause the appellant unnecessary expense in this regard.
14. I have already found that the appeal could not have been avoided for other reasons and any additional administration undertaken by the appellant in pressing the Council for a response to the document was not, in my view, caused by unreasonable behaviour on the part of the Council. The draft document runs to 34 pages of substantive text, most of which is a rehearsal of items already included in the appellant's Statement of Case, including the text of relevant planning policy.
15. The actual summary of the areas of disagreement are covered in less than 5 pages and many of the paragraphs deal with the history of the design consultation process, which was not factually in dispute but which the Council considered were not relevant to the merits of the case. I can see that the Council took some time to respond to the appellant's request for comments but, ultimately, there was a draft SoCG, with comments from both parties to discuss at the event. I therefore find that any wasted or unnecessary expense incurred would have been *de minimis* in the context of the whole appeal process.

Other matters

16. The appellant has complaints about the operation of the Council's pre-consultation process and whether the full service was provided as advertised, but that is not a matter for this costs application which is limited to the parties' behaviour during the appeal process. If the appellant wishes to raise this as a complaint against the Council, there are other routes for doing so.

Conclusions

17. For the reasons set out above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Katie Peerless

Inspector