



Costs Decision

Site visit made on 8 September 2020

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

Costs application in relation to Appeal Ref: APP/M3645/W/20/3251189 526 Limpsfield Road and 1 Birch Way, Warlingham CR6 9DS

- 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 RAA Warlingham Limited for a full award of costs against Tandridge District Council.
 - The appeal was against the refusal of planning permission for the demolition of the two existing buildings and the erection of a building to provide nine residential units and a pair of semi-detached houses, together with 19 parking spaces and amenity space.
-

Decision

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

Reasons

2. Planning Practice Guidance advises that parties in planning appeals normally meet their own expenses. Costs may only be awarded against a party who has behaved unreasonably, and where the unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal process.
3. Procedurally, the length of time taken for the Council to determine the application is not a matter that falls to be considered as part of the costs claim in this case, as it was open to the appellant to appeal on the grounds of non-determination. The Council is also entitled to refuse planning permission for reasons not included on a previous application on the same site, so long as it is able to substantiate them as part of its case.
4. On the substantive grounds I agree that the Council made a number of factual errors when assessing the application. These included giving the application a wrong description (although it appears the correct set of revised plans were used in the final assessment), incorrectly measuring the separation distance to 3 Birch Way, using an incorrect number of bed spaces for Flat A.1.4, and an apparent misunderstanding of a vehicle tracking diagram.
5. However, the Council's reasons for refusal on character and appearance, the living conditions of neighbouring and future occupants, and highway safety went beyond these particular inaccuracies. They included other factual matters on which there is no dispute and matters of judgement that were not dependent on the inaccuracies. I consider that there was sufficient substance in each of these reasons for refusal to justify the Council including them in its decision notice. It was therefore inevitable that having chosen to lodge the appeal the appellant would have to argue their case on each of these grounds.

6. On the ecological reason for refusal, the appellant says further survey information was submitted during the course of the application, while the Council says it did not receive it. I am unable to determine what did or did not happen. In the absence of any evidence to the contrary I consider there are insufficient grounds to demonstrate unreasonable behaviour took place on this issue.
7. I accept that once the inaccuracies had been drawn to the Council's attention, which the appellant did in their appeal statement, it would have been helpful for the Council to address them in a more comprehensive manner, and to concede either fully or partially those points where it was apparent that a factual error had been made. It would also have been helpful to have a clearer response from the Council on the additional ecological survey information, a copy of which was submitted with the appeal documents.
8. However, the appellant did not need to submit any further evidence or rebuttal to the Council's case over and above their initial appeal statement. Even if the Council's response to the appellant's appeal statement were to be considered to amount to unreasonable behaviour in the limited circumstances I have outlined above, it did not result in the expenditure of any additional time or expense on the part of the appellant. On that basis, I consider that the requirements to justify an award of costs have not been met.

Conclusion

9. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Guy Davies

INSPECTOR