
Costs Decision

Site visit made on 11 August 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2020

Costs application in relation to Appeal Ref: APP/Y3615/W/20/3253630 Land off Vicarage Lane, Send, Woking GU23 7JN

- 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 Guildford Borough Council for a full award of costs against Mr and Mrs L N Grant.
 - The appeal was against the refusal of planning permission for erection of 6-bed detached dwellinghouse with basement garaging and attached car port with residential accommodation above.
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Decision

1. The application for the award of costs is allowed in the terms set out below.

Reasons

2. The National 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.
3. The Council consider that the appellant acted unreasonably in the submission of the appeal, on the grounds that the proposal was not in accordance with the development plan and that no new information had been submitted following a previous Inspector's decision¹ on the same site for a similar proposal in 2018.
4. It is clear from the evidence that circumstances have changed since the previous appeal decision, with the adoption of the Council's Local Plan in 2019, along with the advancement of the Send Neighbourhood Plan and its supporting evidence base, although as I note in my Decision on the appeal, the latter is still at an early stage in the process and does not yet form part of the development plan. Reference has also been made by the appellants to recent appeal decisions. Furthermore, I note that the National Planning Policy Framework (The Framework) has also been revised in the intervening period.
5. However, whilst the development plan documents and policy numbers have changed, the overall purpose and aims of Green Belt policy has not. The site remains within the Green Belt and the presumption against inappropriate development from previous iterations of both the development plan and the Framework, remain predominately unchanged. Furthermore, in the previous appeal it was common ground between the parties that the development,

¹ APP/Y3615/W/17/3191876

which is broadly similar to the current proposal, was inappropriate development and did not meet any of the exceptions set out in the Framework at that time.

6. Whilst additional information was submitted to support a case that the site fell within the village of Send, no evidence was submitted to explain what had physically changed in the intervening period to justify why a similar development would now meet the exceptions, as set out in both the Framework and the development plan. Reference was made to other appeal decisions and those of the Council, but as can be seen from my decision on the appeal, I concluded that none of these cases were comparable.
7. In this case, I find that circumstances have not materially changed since the previous appeal decision, which was for a similar development that was deemed to be unacceptable.

Conclusion

8. I therefore find that unreasonable behaviour by the applicant, resulting in unnecessary and wasted expense as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr and Mrs L N Grant shall pay to Guildford Borough Council, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The appellant is now invited to submit to Mr and Mrs L N Grant to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Adrian Hunter

INSPECTOR