



Costs Decision

Site visit made on 25 August 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2020

Costs application in relation to Appeal Ref: APP/A1910/W/20/3245645 Land adjacent to 26 Station Road, Berkhamsted, Hertfordshire HP4 2EY

- 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 Rivergate Homes Ltd & Paul and Elizabeth Rooksby for a full award of costs against Dacorum Borough Council.
 - The appeal was against the refusal of planning permission for the construction of two 3-bed semi-detached dwellings.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may 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 PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The Applicant acknowledges that the Councils Planning Committee are not compelled to follow the advice and recommendations of their Officers - but if they do not do so they have a duty to set out explicitly why they have chosen to disregard that advice in clearly stated reasons for refusal. However, it is submitted that the Council has not substantiated its reason for refusal and offers nothing more than uncorroborated assertions about the impact of the appeal proposal. The Council has not responded to the application for costs.
5. It is clear to me that a Planning Committee decision which goes against officer advice is not a reason to give an award of costs as the Committee were entitled to come to their own conclusions on the merits of the proposal. However, as noted by the Applicant, the key issue is whether the Council have provided sufficient evidence to substantiate their reason for refusal at appeal.

6. In considering development proposals, whether a particular scheme would provide suitable living conditions for its future occupants is clearly a matter of planning judgement.
7. In this case, the Council ultimately considered that the proposal would not provide a suitable living environment and this was further explained within their appeal statement, including reference to Appendix 3 of the Dacorum Borough Local Plan 1991-2011, (2004) which includes guidance that private gardens should normally be positioned to the rear of the dwellings.
8. Whilst I have found in favour of the Applicant in my decision, given the subjective nature of the matter in dispute, I find that the Council have provided sufficient evidence to support their judgement to the extent that they did not act unreasonably in refusing planning permission.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Chris Forrett

INSPECTOR