
Costs Decision

Site visit made on 29 September 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th October 2020

Costs application in relation to Appeal Ref: APP/X0360/W/20/3251124 White Heart Grove, The Coombes, Wokingham RG2 9JQ

- 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 Candice Jules for a full award of costs against Wokingham Borough Council.
 - The appeal was against the refusal of planning permission for the proposed installation of woodland security fencing.
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Decision

1. The application for costs is refused.

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 PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant's costs submission claims that the unreasonable behaviour of the Council has caused an unnecessary appeal and additional work to the applicant.
5. Had the Council engaged with the appellant during the course of their consideration of the appeal application, it may well have resulted in a focusing of the issues between the parties. However, that said, there is no evidence to suggest that, if these discussions had taken place, it would have resulted in a situation where the Council's concerns were fully addressed, and the outcome of the appeal application changed. Furthermore, I am not aware that the appellant engaged with the local authority prior to the submission of the application, which would have provided an opportunity, prior to formal submission, for any concerns or the need for specific information to be highlighted.
6. Reference has been made to a previous decision (APP/X0360/W/19/3238448) for the erection of fencing and gates on a nearby plot of land within the woodland, where the Inspector concluded that the proposal would maintain the environmental quality of the area. It is the appellant's claim that this, along with other matters, should have influenced the Council's position when

- considering the impact of the proposal upon the character and appearance of the area.
7. The assessment of the scheme upon the character and appearance of the area is a matter of planning judgment. The officer's report and the Council's Statement of Case assessed the appeal scheme against the relevant development plan policies and relevant considerations. Both concluded that the impact of the type of fence proposed, which was different in appearance to that considered by the previous Inspector, was harmful. Therefore, whilst I have reached a different conclusion in respect of the effect of the proposal on the character and appearance of the area, the Council have substantiated their concerns and I find that in this respect, they have not behaved unreasonably.
 8. A substantial amount of information has been provided by both parties in support of their respective cases. Having reviewed the submissions, I do not find that any of the information submitted by the Council could be regarded as being new evidence, instead it provides an amplification of their concerns at the appeal stage.
 9. I note that further detail was provided with regards to the Ancient Woodland classification, which was made during the course of the appeal. I find however, that this information to be a matter of fact that was material to the appeal, rather than being new evidence. The timing of the designation was unfortunate in terms of the appeal having already been lodged, however neither of these are within the control of the Council.
 10. With regards to the issue of the use of the land for the keeping of woodland poultry, despite the Council referring to the matter in their Statement of Case, it does not feature within the reasons for refusal. Therefore, whilst there is some ambiguity with regards to the use of the land for the purpose of keeping wildlife poultry, from the evidence, this does not appear to have been determinative on the part of the Council.
 11. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Adrian Hunter

INSPECTOR