

Appeal Decision

Site visit made on 7 October 2020

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2020

Costs application in relation to Appeal Ref: APP/A3655/W/20/3249620 Land south of Ivydene, Knaphill, Woking, GU21 2TA

- 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 Mr R Hedges of Barnsmoor Estates Ltd for an award of costs against the decision of Woking Borough Council.
 - The appeal was made against the refusal of an application, Ref PLAN/2019/1028, which sought planning permission for the erection of a 1 ½ storey detached dwelling (4x bed) on land south of Ivydene and associated vehicular access, parking and landscaping.
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Decision

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

Reasons

2. Planning Practice Guidance (guidance) 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 Appellant does not put forward any specific argument in respect of the costs claim but rather sets out the professional costs related to the exercise. I must assume that it is made within the context of the guidance and that the Appellant feels aggrieved that the reasons for refusal were ill-founded and represented unreasonable behaviour. The point is made in parallel appeal papers that the Planning Committee's decision was contrary to the Officer's recommendation.
 4. The Council acknowledges the fact in the foregoing sentence but makes its case that the Planning Committee was able to weigh up all of the material planning considerations, including planning policies relating to the application, and in this instance came to a different planning judgment to that of the professional officer. It is put that the Planning Committee considered that the proposal did not comply with Core Strategy Policies CS8, CS21 and CS24 and Supplementary Planning Documents on Woking Design and Outlook, Amenity, Privacy and Daylight. The Committee identified the planning harm in its eyes and it is put that it was entitled to form the judgement based on the particular circumstances of this case. The Council goes on to reiterate its principal concerns as set out in the Main Issues of the appeal. It is highlighted that the Planning Committee considered that no conditions could have overcome the reasons for refusal.
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5. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a full, or indeed partial, award of costs.
6. Clearly the Members did not follow the advice of the Officers. Nevertheless to my mind the refusal reasons, with their aesthetic, amenity and (subsequently withdrawn) ecological elements, are clear and they set out unequivocally the concerns of the Council and cross-refer to applicable policies.
7. The Members gave their consideration having regard to the Officer's report and site history and bearing in mind responses from local people. Whilst I did not find it harmful this development is in reality an unusual proposition for an established locality such as this neighbourhood. Key aspects of determination of the scheme include subjective opinion. It was reasonable in this instance for elected Members to consider that a proposal should be determined not in accord with their Officer's recommendation.
8. I appreciate an appeal process can be time and fee consuming. However the Council has given reasons for the judgement it reached and the decision notice is sufficiently lucid and I have no reason to believe it did not stem from the debate which led up to it. The documented decision process enables me to determine that development plan matters had been sufficiently considered and impacts had been analysed.
9. On the matter of the overall decision, as it happens I disagree with the conclusions reached by the Council but I would nevertheless defend the Council's wording and assertions in the round as not being unsubstantiated and its actions throughout the process as not being irrational.
10. Given all the circumstances I find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

D Cramond

INSPECTOR