



Costs Decision

Site visit made on 29 September 2020

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2020

Costs application in relation to Appeal Ref: APP/A3655/W/20/3250617 Wentworth House, Rough Road, Brookwood, Woking, GU22 0RB

- 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 Alan Birch for a full ward of costs against Woking Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for grant subject to conditions of planning permission for the erection of a replacement dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that 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 applicant claims that the Council has acted unreasonably on two grounds which I summarise as:
 - refusing to communicate with the applicant and failing to provide a reason for not reaching a decision within the relevant time period resulted in the applicant having no option but to appeal;
 - imposing a condition which does not meet the tests set out in national policy, including the policy that applied at the time the condition was imposed (Circular 11/95).
4. The applicant states that various unsuccessful attempts were made to communicate with the Council at the application stage. Planning Policy Guidance (PPG) states that the local planning authority may be at risk of costs if there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether. Whilst I agree that the applicant must have found the Council's lack of communication frustrating, I have no evidence before me to suggest that better communication with the applicant would have resulted in the Council approving the application and thus avoiding the need for the appeal and the expense associated with it. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

5. In the main decision I have concluded that the condition removing permitted development rights for development falling within Classes A to E of Schedule 2, Part 1, of the Town and Country Planning (General Permitted Development) Order 1995¹ (as amended) (GPDO) was unreasonable and unnecessary. I agree that the imposition of the condition would not have complied with the relevant tests which at the time, were set out in Circular 11/95. However, the decision made in 2002 was prior to the more detailed policy guidance set out in the National Planning Policy Framework and National Planning Policy Guidance. Therefore, the Council did not act unreasonably in this regard.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for costs should be refused.

J Davis

INSPECTOR

¹ This has been superseded by the Town and Country Planning (General Permitted Development) (England) (Order 2015 (as amended) (GPDO).