
Costs Decision

Site visit made on 25 November 2020

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Costs application in relation to Appeal Ref: APP/M3645/W/20/3246871 34 Westmore Road, Tatsfield, TN16 2AX

- 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 Smythe Bros (Developments) Ltd for a [partial] [full] award of costs against Tandridge District Council.
 - The appeal was against the refusal of planning permission for demolition of existing bungalow and buildings and erection of 2 x 3-bedroom semi-detached houses.
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Decision

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

Reasons

2. Planning Practice Guidance advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application for costs is based upon belief that the Council has acted unreasonably in refusing permission and has not justified or demonstrated the objections raised and the reasons for refusal. It is contended that the appellants have therefore been put to the trouble of submitting the subject appeal and responding to specific reasons for refusal unnecessarily.
4. It will be evident from my decision on the main appeal that I consider the Council determined the application correctly. The Council produced sufficient evidence to substantiate the first two reasons for refusal at both application and appeal stages. Whilst the appellant has referred to an absence of technical analysis, I do not agree that the Council's comments amount to vague, generalised or inaccurate assertions about the proposal's impact, unsupported by any objective analysis. I have not agreed with every part of the Council's analysis supporting the first two refusal reasons but consider it of adequate rigour to justify the decision taken and defended. Planning judgement must be applied at application and appeal stages in relation to site circumstances and relevant planning policies.
5. I agree with the appellant that removal of the outbuilding and details of facilities to be provided in the back gardens and in relation to renewable energy could have been covered by planning conditions in the event of the appeal being allowed. The Council appeared uncertain in relation to the future of the existing outbuilding in the back garden, but the description of development clearly referred to "*demolition of existing bungalow and buildings*".

6. Nonetheless, it seems to me that most of the appellant's time and trouble in contesting the appeal relates to the substantive points in the first two refusal reasons. I do not consider that the harm identified in relation to the character and appearance of the area and to the living conditions of an adjacent occupier could have been overcome using planning conditions. Even if the Council had resolved to cover back garden and energy issues through the list of suggested planning conditions, the appeal would still have had to proceed to contest matters raised in the first two refusal reasons.

Conclusion

7. I therefore conclude that there has not been unreasonable behaviour resulting in inconvenience for the applicant arising from the Council's actions on the appeal. Neither a full nor partial award of costs is justified. For the reasons given I conclude that the application should not succeed.

Rory MacLeod BA(Hons), MRTPI

INSPECTOR