
Costs Decision

Site visit made on 20 October 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2021

**Costs application in relation to Appeal Ref: APP/X0360/W/20/3253095
Land adjacent to Park Farm, Copse Barn Hill Lane, Carters Hill, Arborfield
Berkshire RG2 9JJ**

- 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 and Mrs Cunningham for a partial award of costs against Wokingham Borough Council.
 - The appeal was against the refusal of planning permission for the erection of dwellinghouse following removal of stables.
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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 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 (LPA) 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. The PPG is also clear that an award of costs can be granted if fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen is introduced.
4. The application for costs relates to a claim by the appellant that the Council introduced new evidence during the course of the appeal, in this instance in relation to the impact of the proposal upon a valued landscape and a veteran tree.
5. In response to the claim, the Council have drawn my attention to the appellant's Landscape and Visual Appraisal, where reference is made to valued landscape, along with their subsequent reason for refusal which refers to Paragraph 170 of the National Planning Policy Framework, where part a) includes a reference to valued landscapes. On this basis, I do not consider the case advanced by the Council to constitute new evidence, but to be an expansion of their reasons for refusal.

6. Turning to the veteran tree, I note there is no reference to trees within the reason for refusal and that the Council's Landscape and Tree Officer, whilst highlighting the presence of veteran trees, did not recommend refusal on these grounds. Furthermore, no detailed arboricultural evidence has been provided by the Council to support their claim that the tree is a veteran, especially as this designation is disputed by the appellant. It therefore follows that, in my view, the introduction of this information constitutes new evidence, and this does amount to unreasonable behaviour.
7. I turn then to the matter of wasted expense. The appellant had already produced an Arboricultural Impact Assessment as part of the appeal application. In lodging the appeal, and in responding to the Council's statement of case, the Appellant has had to respond to the issue of the veteran tree. But, from the evidence, the Appellant has not undertaken anything beyond a rebuttal, which is included within other comments made on the Council's position. It seems to me that, in reality, there has been little extra work involved in responding to the matter of the veteran tree. In effect, the Appellant has quickly and easily rebutted the Council's position without wasting any significant expenditure.
8. As a result, although I find that the Council acted unreasonably in introducing new evidence during the course of the appeal, it has not caused unnecessary expense. Therefore, no award is made.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Adrian Hunter

INSPECTOR