
Costs Decision

Site visit made on 26 January 2021

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2021

Costs application in relation to Appeal Ref: APP/P1750/W/20/3261025 244 Farnborough Road, Farnborough GU14 7JW

- 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 Giash Udin for a full award of costs against Rushmoor Borough Council.
 - The appeal was against the refusal of planning permission for erection of a three storey building comprising flexible use of either A1/A2 use on ground floor with 2 x two bedroom residential units to the upper floors and associated parking.
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Decision

1. The application for the 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 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 application for costs relates to an inconsistent approach to advice and decision making by the Council.
5. Informal advice provided before an application is made, is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all relevant factors. Whilst the final decision on the appeal application differs from the advice given at pre-application stage, from the information, it is clear that issues in relation to car parking and the Thames Basin Heath SPA were highlighted by the Council. I have therefore no firm basis to conclude that the informal advice was so misleading as to amount to unreasonable behaviour on the part of the Council.
6. In terms of during the application, my attention has been drawn by the appellant to the planning history of the site, which includes two previous approvals for development on the site. The Council have confirmed this, but also identified that neither of these schemes have been implemented and have therefore lapsed. Since the last scheme the Council have also adopted a new Local Plan and a new SPD covering Parking Standards.

7. From the evidence, whilst the decision on the appeal application differs from the previous decisions on the appeal site, given the policy framework that is now in place, I do not consider the decision of the Council to be inconsistent.
8. 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

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