



Costs Decision

Hearing Held on 19 and 20 January 2021

Site visit made on 20 January 2021

by Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2021

Costs application in relation to Appeal Ref: APP/M3645/W/20/3259930 Woodlands Garage, Chapel Road, Smallfield RH6 9NN

- 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 Mrs Jeanette Reynolds (Design and Build Ltd) for a full award of costs against Tandridge District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for demolition of all buildings on site. The erection of a two storey building to accommodate 4 flats, erection of 2½ storey building to accommodate 6 flats and 1 retail unit on the ground floor with storage space at the rear and ancillary parking and landscaping.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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.¹
3. I appreciate that the applicant disputes the Council's handling of the planning application, including with regard to its validation and determination, and considers that further discussions with the Council at application stage may have potentially led to certain matters being resolved with the Council or even the appeal avoided. However, on the evidence before me, it appears unlikely that further discussions would have altered the Council's position with regard to its reasons for refusal No 1 and No 2 (in part).
4. Having made the decision that it did, the substance of the application is that the Council has prevented or delayed development which should clearly be permitted, has failed to produce evidence to substantiate each reason for refusal, has made vague, generalised or inaccurate assertions about the impact of the appeal proposal and refused permission on matters capable of being dealt with by conditions.
5. PPG states that 'where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no

¹ PPG paragraph 16-030-20140306.

grounds for an award of costs against the local planning authority for unreasonable refusal of an application'.² Notwithstanding the Council's position in the appeal with regard to the revised proposal and withdrawing its reasons for refusal No 2 (in part) and Nos 3 to 7, it nonetheless confirmed at the hearing that it maintains its objections to the appeal proposal and reasons for refusal Nos 1 to 7. I note that these reasons are all underpinned by relevant development plan policies as referred to by the Council in its officer report, decision notice, appeal statement and questionnaire.

6. The applicant accepts that even if reasons for refusal No 2 (in part) and Nos 3 to 7 had been overcome in this appeal, as the applicant and the Council otherwise consider would be the case in the revised proposal, nonetheless reasons for refusal No 1 and No 2 (in part) would remain. Moreover, the applicant agrees that my decision in these regards would still be a matter of planning judgement. I appreciate that the applicant disagrees with the Council's judgement but the Council was nevertheless entitled to make the judgements that it did. It will be evident from my appeal decision that I support the Council's decision to refuse planning permission, including for reasons No 1 and No 2 (in part), having also considered national policy in the National Planning Policy Framework. Consequently, the Council has not prevented or delayed development that should 'clearly'³ have been permitted.
7. The Council's appeal statement is largely written as a response to the applicant's appeal statement and includes some comparisons to the extant permission. It is entitled to adopt such an approach. Moreover, the Council has produced specific and objective evidence for each reason for refusal in its officer report, decision notice, appeal statement and questionnaire. It has also considered the appeal proposal on its planning merits, including reasons No 1 and No 2 (in part) and in the context of the appeal site and its surroundings. The Council further substantiated all its reasons for refusal orally at the hearing with regard to the appeal proposal.
8. Notwithstanding the Council's agreement to conditions in the revised proposal, that scheme is not before me for the reasons that I have given in my appeal decision. I have also explained that in the appeal proposal some conditions could be imposed, were I minded to allow the appeal, but that other conditions suggested by the applicant (and albeit otherwise agreed by the Council) would not, on the evidence before me, overcome the concerns that I have identified, including in connection with the Council's reasons for refusal Nos 5 to 7. Accordingly, the applicant's suggested conditions would not mitigate the otherwise adverse effects or make the development acceptable and allow it to proceed.⁴
9. For the reasons given, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense during the appeal process, as described in the PPG, has not been demonstrated and that a full award of costs is not therefore justified, nor is a partial award for the same reasons.

Robin Buchanan

INSPECTOR

² PPG paragraph 16-050-20140306.

³ PPG paragraph 16-049-20140306.

⁴ PPG paragraph 21a-001-20140306.