



Costs Decision

Site visit made on 17 March 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2021

Costs application in relation to Appeal Ref: APP/X0360/W/20/3262688 Land rear of 20 Anderson Crescent, Aborfield Cross RG2 9PB

- 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 David Cook for a partial award of costs against Wokingham Borough Council.
 - The appeal was against the refusal of planning permission for the use of land as a single pitch caravan site, creation of a new access and associated parking.
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Decision

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

Reasons

2. 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 expense in the appeal process.
3. The applicant submits that the Council has acted unreasonably by including refusal reasons 2, 3 and 4 on the decision notice. These raise issues of the effect of the proposal on the living conditions of existing and future residents, highway safety and cycle parking provision. He considers that the Council's concerns in relation to these matters could have been suitably overcome by the imposition of planning conditions. He further maintains that with regards to highway safety and cycle parking, they did not follow the advice of the Highway Authority and in relation to the former, contradicted the finding of an Inspector. Furthermore, the Council declined the applicant's request that these reasons be withdrawn.
4. PPG further indicates that local planning authorities will be at risk of an award being made against them if they refuse planning permission on a planning ground capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the proposed development to go ahead. They would similarly be at risk if they persist in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
5. In their officer report and appeal statement the Council give a plausible explanation of their concerns regarding the potential impact for overlooking to the residents at 20 Anderson Crescent. They made their assessment based on the limited and indicative information provided. Furthermore, the delegated officer report and appeal statement consider the difficulty of imposing

conditions regarding obscure glazing given that caravans are typically an off-the-shelf purchase and furthermore, might be repositioned within the site. Therefore, it is not shown that the Council failed to consider the imposition of conditions.

6. Although I did not find harm in relation to this matter, I consider that it primarily required the exercise of planning judgement. It was not unreasonable for the Council, based on the limited information provided, to have judged otherwise nor to have found that conditions would not fully overcome their concerns.
7. It will be seen from my decision that in relation to the provision of vehicular and cycle parking and visibility splays, I found that these were matters capable of being dealt with by conditions. This broadly aligned with the expert advice given by the Highway Authority. However, the Council have explained that they were not confident that it would be possible to provide the car parking and cycle storage on the terms required by the Highway Authority in addition to the caravan pitch. This was largely predicated on the indicative nature of the block plan provided and the absence of firm details regarding the dimensions and siting of the caravan. Following the logic of that judgement, it follows that planning conditions would not have necessarily addressed their underlying concern. Although I did not share that judgement, I am satisfied that it was reasonable in the circumstances.
8. Neither am I persuaded that the Council's behaviour in this regard persisted in objecting to a scheme which an Inspector has previously indicated to be acceptable. This is because the appeal decision to which I am referred was made a considerable time ago when the minimum parking dimensions required were smaller. It also related to a different development as it was for a house rather than the use of the site as a single pitch caravan site. Furthermore, the information provided suggests that a greater degree of information regarding parking and access arrangements was before that Inspector in comparison to this case. Given that there are differences, it was not unreasonable or inconsistent of the Council to form a different conclusion.
9. Therefore, overall, I do not consider that unreasonable behaviour has been demonstrated within the meaning of the PPG. Consequently, as I am not persuaded that the Council has acted unreasonably in this case, it follows that the applicant was not put to unnecessary or wasted expense in testing their judgement at appeal.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Helen O'Connor

Inspector