

Costs Decision

Site visit made on 13 April 2021

by N Thomas MA MRTPI

An Inspector appointed by the Secretary of State

Decision date: 5 May 2021

Costs application in relation to Appeal Ref: APP/C3620/X/20/3260080 The Drive, Tyrrells Wood, Headley, Leatherhead KT22 8QP

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Tyrrells Wood Estate Association for a full award of costs against Mole Valley District Council.
 - The appeal was against the refusal of the Council to issue a certificate of lawful use or development for the erection of a hand operated wooden gate across the metalled surface of The Drive, circa 65-70 metres from the junction of The Drive and Headley Road. The gate (including gateposts) will not exceed 2 metres in height and will be approximately 5 metres in width (sufficient to span the metalled surface of The Drive with gateposts either side of the verge).
-

Decision

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

Reasons

2. An award of costs may be made where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The Planning Practice Guidance (PPG) advises that local planning authorities can be at risk of an award of costs if they do not cooperate with the other party, or if they prevent development which should reasonably be permitted.
3. The appellant states that the appeal was unnecessary as the Council did not seek clarification or engage with the appellant in a meaningful way prior to making a decision, and that it did not take the opportunity to issue a certificate for an alternative lower height gate.
4. With the agreement of the appellant, a local planning authority may choose to issue a lawful development certificate for a different description from that applied for, as an alternative to refusing a certificate altogether. However, there is no obligation for the local planning authority to do so. As the application was for a gate not exceeding 2 metres in height, it was not unreasonable for the Council to determine the application on that basis.
5. The applicant is responsible for providing sufficient information to support an application for an LDC. There is no requirement for the local planning authority to seek further clarification from the applicant. In any event, the local planning authority determined the application on the basis of the information that the applicant provided, and it is not clear what matters could have been clarified

that would have led to a different decision. Although I have come to a different conclusion to the Council in determining the appeal, I do not agree that the Council behaved unreasonably in its determination of the application such that the appeal could have been avoided, nor that the costs associated with the appeal process were wasted.

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

N Thomas

INSPECTOR