



Costs Decision

Site visit made on 15 June 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Costs application in relation to Appeal Ref: APP/X0360/W/21/3269790 Land at Croft Road, Spencers Wood, Shinfield, Reading RG2 9EY

- 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 Millen Homes Ltd for a full award of costs against Wokingham Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 3 detached dwellings on land at Croft Road, Spencers Wood.
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Decision

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

Reasons

2. Planning Practice Guidance advises that parties in planning appeals normally meet their own expenses. Costs may only be awarded against a party who has behaved unreasonably, and where the unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant is aggrieved that revised plans and information relating to the access was not considered by the Council prior to its decision, that requests of details for inclusion in a legal undertaking were not replied to, and that no notification was given of the change to the extent of the Detailed Emergency Planning Zone. Attention is also drawn to differences in the reasons for refusal between the appeal scheme and an earlier proposal for 4 dwellings on the site¹, which did not include any reference to affordable housing. The appellant considers that had these matters been properly addressed prior to determination of the application, it would have avoided the need for some or all of the reasons for refusal.
4. On the matter of the revised access arrangements, while the appellant says further information was submitted during the course of the application, the Council says it did not receive it, and that if it had it would have advised the appellant that such a change required a new application. The appellant has provided a copy of an email dated 5 December 2020 to an officer at the Council that gives a link to a dropbox purportedly containing the revised information, but I am unable to determine whether that email did or did not reach the Council. That is unfortunate because if the revised information had been considered, it is likely that it would have overcome one of the reasons for refusal. However, in the absence of any definitive evidence to the contrary I accept the Council's explanation that it did not receive the revised information.

¹ 201381

On that basis there are insufficient grounds to demonstrate unreasonable behaviour took place in this regard.

5. So far as the drafting of a legal undertaking is concerned, given the objection of the Council to the principle of development on the site, I accept that it would not have been a good use of resources to have carried out detailed work on such a document when it would not have altered the decision of the Council to refuse planning permission for other reasons.
6. In relation to the expansion of the Detailed Emergency Planning Zone, I agree that it would have been desirable for the Council to have notified the appellant of the expansion given that it was material to its decision, and was a change in circumstances since the previous application on the site. However, notwithstanding the lack of notification from the Council, the appellant became aware of the change prior to the application being determined and was able to submit a response to it². The appellant was not therefore disadvantaged by the lack of notification.
7. The Council is entitled to refuse planning permission for reasons not included on a previous application on the same site, so long as it is able to substantiate them as part of its case. It advanced a policy reason for doing so in this case, and while I have found the local policy to have been overtaken by subsequent national policy there was a case to be argued, which the Council did in its statement of case.
8. I acknowledge the frustration of the appellant in what it considers to be a lack of engagement by the Council to overcome some or all of the reasons for refusal. However, it is apparent that there were matters of principle in dispute that would have led to a refusal in any case and would have necessitated the current appeal.

Conclusion

9. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Guy Davies

INSPECTOR

² Radiological Impact Assessment, Mike Thorne and Associates Ltd, January 2021.