



Costs Decision

Site visit made on 9 April 2021

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

Costs application in relation to Appeal Ref: APP/M3645/W/20/3253128 38 Court Farm Road, Warlingham, Surrey CR6 9BD

- 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 J Owens (Silverleaf Group) against the decision of Tandridge District Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing dwelling and the erection of 3 dwellings and a block of 6 apartments.
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Decision

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

Reasons

2. The Government's Planning Practice Guidance ('the 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. The appellant considers that the Council has behaved unreasonably in both procedural and substantive terms.
3. As regards procedure, the appellant complains of unreasonable delay, with the application having been submitted in November 2019 but with progress on its processing sufficiently slow to necessitate an appeal against non-determination in May 2020.
4. However, it is clear from the appellant's costs statement that it was appropriate for the plans to be amended and for further information to be submitted to the Council, including in respect of drainage, ecology and trees. Furthermore, the Council has explained that substantive negotiation on the application was precluded by both a high turnover of staff and, in the three months before the appeal was lodged, the difficulties caused by Covid-19.
5. Overall, I do not consider that on procedural grounds a case has been made that the six months or so of delay was caused by the Council's unreasonable behaviour. I note that the costs application includes two appeals where the Inspector decided that the opposite applied, but with each case having its own particular circumstances I can give only limited weight to this submission.
6. In terms of the costs claim on substantive grounds, the thrust of the appellant's objections is that in raising a number of issues, the Council failed to take account of the coverage of matters in the previous appeal decision and the Inspector's views. Furthermore, a number of new issues were raised and

comments made in the Council's appeal statement that have necessitated additional work.

7. However, whilst there may have been some changes of approach, it is clear to me that the previous Inspector did address issues of plot sub-division including building on the woodland; the impact on ecology, and the effect of development on living conditions, including matters relating to noise and daylight / sunlight. The current appeal relates to a quite different scheme than its predecessor and the decision on the latter is over four years ago. I can see nothing that the Council has raised that it was not entitled to, given that there is a material difference between the two development schemes and therefore changed considerations on important issues.
8. In addition, there was considerable public interest in the application and the Council is duty bound to reflect the results of public consultation in its approach to the various matters. One example of this is the relationship of trees outside the site with the proposed development, with the block of flats particularly affected. The appellant will also be aware that I have supported the Council's case on a number of considerations, including the three main issues, whilst at the same time acknowledging that other points of contention initially raised in the previous appeal scheme have been satisfactorily resolved.
9. In respect of substantive matters I do not therefore consider that the Council has behaved unreasonably. And as I have also come to the same finding in terms of the procedural claim, I must conclude overall that unreasonable behaviour as indicated in the PPG has not been demonstrated.
10. The application for an award of costs is therefore refused.

Martin Andrews

INSPECTOR