The Planning Inspectorate

Costs Decision

Site visit made on 5 July 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th August 2021

Costs application in relation to Appeal Ref: APP/D3640/W/20/3264900
104 High Street, Chobham GU24 8LZ

- 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 and Mrs Bruzas for an award of costs against Surrey Heath Borough Council.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the erection of a 2 storey dwelling and outbuilding following demolition of existing bungalow and garage.

Decision

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

Reasons

2. The 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.

3. The Council provided the applicant with pre-application advice and the applicants contend that all issues raised by the Council have been addressed.

4. The Local Planning Authority did not make a decision on the planning application within the 8-week timeframe and had not requested an extension of time in which to determine the planning application. Given pre-application advice had been provided by the Council it is contended that a decision could have been forthcoming within the 8-week timeframe.

5. It is suggested that the Local Planning Authority's delay in determining the planning application was due to consultee responses being outstanding, potentially in some cases due to a lack of technical advice resources within the Council. Although the applicant points to the Council's conservation officer having responded quickly to the initial consultation, it is said that the response was not placed on the Council's website where it could be publicly viewed.

6. For these reasons the applicant considers that the Council has acted unreasonably, and the applicant has incurred the unnecessary time and associated cost of the appeal process as the applicant has had to obtain professional assistance and advice and submit an appeal.

7. The Council highlights that pre-application advice provided, which included comments made by the Council's conservation adviser, and was a similar scheme to that put forward within the planning application that is the subject of appeal. The pre-application advice also indicated the requirement for any future planning application to be supported by a tree report and flood risk assessment. The Council contends that advice provided within the pre-application advice was not heeded by the applicants. Furthermore, the inclusion of tree and flood reports in support of the application were not a pre-requisite of planning permission being forthcoming as comments from the Council's technical advisers would be sought as part of the planning application process.

8. The Council has provided a timeline of events relating to receipt of technical advice and correspondence with the applicant that indicates a number of technical responses were received beyond the 8-week timeframe for determining the planning application. The Council advises that this made it difficult for the Council to estimate a likely timeframe for reporting the planning application to its committee at the 8-week point.

9. The applicants' contentions pertain to delays in officers obtaining technical responses and/or posting them on the Council's website in a timely manner. As such, the applicant's contentions relate to the Council's conduct during the course of its consideration of the planning application, rather than failure to adhere to the timetable of the appeals process.

10. With regard to the Council's conduct, whilst all parties are expected to behave reasonably throughout the planning process, the PPG advises the awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission. If the applicant has concerns relating to the Council's handling of the planning application, including the timing of the officer's site visit, this should be taken up with the Council separate to the appeal.

11. The planning application was brought before members of the Council's planning committee for consideration and to acquire the members' resolution had they been a position to determine the planning application. Despite the applicants' views that all issues raised within the pre-application advice had been addressed, the Council has set out its justification for recommending refusal of the proposal. I acknowledge that the Council's conservation officer may have held a favourable opinion toward the proposal. However, it is open for Council officers and members to come to a different view to that of their technical advisers albeit adequate reasons should be given. The Council committee report provides satisfactory justification in this case.

12. I note the applicant has contacted the Environment Agency (EA) directly as there are some concerns about the EA misinterpreting the proposal. As that has taken place outside of the planning application process that is separate to the appeal. There is some criticism as to whether or not the Council's arboricultural officer's response is in the public domain. Whilst that is a matter to be taken up with the Council in the first instance, I have seen sight of 'Tree Consultation' comments that form part of the Council's appeal submission documents.

13. My attention is drawn to a local campaign that objected to the proposed development. Such campaigns are often mounted by interested parties to

planning proposals and it is open for interested parties to do so as part of our democratic society.

Conclusion

14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs is not justified.

Nicola Davies

INSPECTOR