



Costs Decision

Site visit made on 19 August 2021

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 08 September 2021

Costs application in relation to Appeal Ref: APP/X0360/W/21/3270871 Riverwood Bungalow, New Mill Road, Finchampstead, RG40 4QT

- 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 Hitti for a full award of costs against Wokingham Borough Council.
 - The appeal was against the refusal of prior approval for the enlargement of the dwelling house consisting of the construction of one additional storey, in accordance with Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
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Decision

1. The application for the 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. The PPG sets out what type of behaviour may give rise to a substantive award against a local planning authority.
3. The application is for a full award of costs on the grounds that the Council acted unreasonably: by not taking account of detailed information submitted in the recent application for a Certificate of Lawful Existing Use or Development (the CLD); by not seeking additional information before determining the application; by asserting that the building was a "mobile home type structure" which could not support a further storey without demolition or works outside the curtilage of the property; by altering their decision-making process to include unfounded reasons for refusal; and by asserting that it would be impossible to find a non-combustible material of similar appearance to the existing timber cladding.
4. It is for the applicant/appellant to supply the relevant information for each application rather than expecting the Council to extract this from previous cases including from the CLD. This is especially the case where there is a substantial planning history on the site and some doubt about the accuracy of statements that were made historically in relation to the appeal site.
5. The Council did not seek further information during the course of considering the application as it could do for under Paragraph AA.2(3)(a). However, the Council are not obliged to do this.

6. Notwithstanding the planning history of the site it was not reasonable for the Council to persist in concluding the building was a mobile home structure given the granting of the CLD for "the erection of Riverwood Bungalow with associated residential curtilage, stables and paddocks" Planning Ref 203260. Nor was it reasonable to assume that there would be substantial demolition.
7. There appears to have been draft recommendations and reports related to the appeal proposal, one of which recommended the application for approval. The Council have not addressed this in their response to the costs claim. However, in my experience it is not unusual that drafts are prepared that may get altered during the course of fully assessing applications.
8. I have found that the materials proposed would not appear from the submitted brochures to match the existing. Whilst there may be suitable materials that would match, it is for the applicant/appellant to demonstrate the acceptability of a proposal. In the absence of acceptable alternatives I do not consider the Council demonstrated unreasonable behaviour in this respect.
9. In my appeal decision I have found that given the planning history on the site the case is not straightforward. I also found that despite additional information being submitted with the appeal that insufficient information has been provided to confidently conclude the proposed development complies with the relevant conditions, limitations or restrictions. Accordingly Paragraphs AA.1(j) and (k) are not met and so the proposal does not benefit from permitted development rights. As less information was submitted with the initial application it should have been refused on this basis: the appeal could not have been avoided.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

S Harley

INSPECTOR