



Costs Decision

Site visit made on 26 October 2021

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2021

Costs application in relation to Appeal Ref: APP/L3625/W/21/3266641 8 Brighton Road, Hooley CR5 3EB

- 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 Kirit Chouhan (Prestige London Homes Limited) for a partial award of costs against Reigate and Banstead Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of existing dwelling and erection of two buildings comprising 10 new homes with associated access, parking and landscaping.
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Decision

1. The application for a partial award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (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. I recognise that there were pre-application discussions, in order to gauge the Officer opinion to the scheme, in light of a previous proposal being dismissed at appeal. The eventual decision was taken by the Planning Committee and was not in line with the Officer recommendation to approve the planning application. Whilst I understand the applicant's frustration, it is the right of the Planning Committee to make this decision and refuse the planning application.
4. The Committee raised concerns regarding the effect of the scheme on the neighbouring occupants and this formed the basis of the second reason for refusal. The neighbouring property has windows facing towards the proposed development and the building that would be positioned closest to these windows would be higher than the building it replaces. This is a material consideration, and the Planning Committee was perfectly entitled to consider this aspect of the proposal. That the Committee placed greater weight on the likely harm this would cause than either its Officers or I concluded, does not make the decision unreasonable.
5. Indeed, the thrust of the applicant's concerns relate more to the Committee's conclusions regarding the possible effect on neighbour's living conditions in the light of a previous decision on the site. Whilst consistency in decision making is important, the Planning Committee was being asked to consider the merits of the scheme in front of them, rather than directly comparing it with a previous

but different scheme. They were also considering the proposal in relation to the Development Management Plan¹, which was adopted in 2019, after the previous scheme was determined. The Design Guide² offers general guidance on such matters as distances between buildings, thereby requiring the decision maker to consider each case on its own merits. Therefore, I do not consider it unreasonable for a Planning Committee to highlight an issue in October 2020, which a previous Planning Committee did not raise some 3 years or so previously when considering an entirely different scheme.

6. With regard to the matter of car parking, only very general, anecdotal concerns were raised by the Council in their submissions on the appeal. Whilst the concerns raised can be material considerations there was no particular evidence provided in support of this reason for refusal. There was no detailed rebuttal to the substantive evidence and analysis provided in support of the scheme having a reduced on-site parking provision. The observations of the Highway Authority and Highways England, neither of whom objected to the scheme, were not addressed in the Council's Statement. Although there was no parking survey submitted in support of the proposal, given the pre-application discussions and Officer recommendation this is not altogether surprising. I am not aware that there was any request by the Committee for one to be undertaken in order to help their deliberations.
7. Having regard to all of the above, I consider that the Council acted unreasonably in refusing the application on the basis of the proposal having a reduced on-site parking provision. I am therefore satisfied that it was unreasonable for the appellant to have to defend Reason for Refusal 3 at appeal.
8. Given the above, I find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified in this case.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Reigate and Banstead Borough Council shall pay to Mr Kirit Chouhan (Prestige London Homes Limited) those costs incurred in relation to defending Reason for Refusal 3; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Reigate and Banstead Borough Council details of those costs with a view to reaching agreement as to the amount.

Stewart Glassar

INSPECTOR

¹ Reigate and Banstead Local Plan Development Management Plan (2019)

² Reigate and Banstead Local Distinctiveness Design Guide (2004)