The Planning Inspectorate

Costs Decision

Site visit made on 10 January 2022

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2022

Costs application in relation to Appeal Ref: APP/W0340/W/21/3279937
Land adjacent to Summerfield, The Ridge, Cold Ash, RG18 9HT,

- 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 T A Fisher & Sons Ltd for a partial award of costs against West Berkshire Council.
- The appeal was against the refusal planning permission for the change of use of part of existing agricultural field to residential and the erection of 5 no. detached dwelling houses with ancillary garages, access, parking, landscaping and associated works, without complying with conditions attached to planning permission Ref 19/00832/REM.

Decision

1. The application for costs is refused.

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. The PPG provides that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, or by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

3. The application for award of costs relates to reasons for refusal Nos 2 and 3. As set out in my Decision Letter for the appeal, it is my view that the appellant was not seeking to provide details of landscaping sufficient to discharge any condition. The proposal was to alter the plan number referenced in Condition Nos 4 and 5 only, due to proposed amendments to garages. This could have been done by reimposing the conditions, just with the plan reference amended. There does appear to be some misunderstanding from the Council on this matter.

4. However, it was reasonable for the Council to consider the amended plan to see if there were any landscaping alterations from what was previously included on the plans. In this regard, the Council did raise the issue of the removal of a section of hedgerow between the front gardens of plots 3 and 4. The appellant stated this was an unintentional omission. There also appears to be additional hedgerows shown on the amended landscaping plan from that

originally proposed. This might have contributed to some of the confusion between the parties at the time of the application determination and led to the Council considering the landscaping proposed with the amended plans in detail.

5. Further to the above, it is my view that even if reasons for refusal Nos 2 and 3 were removed there was still the reason for refusal relating to the garage design and scale (No 1). As such, there would still have been the cost to submit an appeal. It is not clear from the evidence if there were any substantive additional costs in addressing reasons for refusal Nos 2 and 3 when there was likely to be an appeal in any case.

6. I note the appellant's comments regarding comments made in the Councils' submissions about the proposed amended garages. Whilst the Council has used some different terms to describe its concerns with the garages, the comments do not introduce distinct new issues, but rather expand on the reason for refusal with the Decision Notice.

7. There have been policies within the Council submissions with regards the amended garage designs which were not on the Decision Notice. With regards to policy FT1 for example, this was not on the Council reason for refusal. However, there are no new issues to be addressed as a consequence of its inclusion as it relates to character and appearance. It is therefore not clear how and to what extent this has led to additional costs for the appellant.

8. Therefore, for the reasons set out above, I find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

Mr S Rennie

INSPECTOR