
Costs Decision

Site visit made on 4 May 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date 26 MAY 2022

Costs application in relation to Appeal Ref: APP/L3625/W/21/3285246 The Old School House, 4 Effingham Road, Reigate RH2 7JN

- 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 Ian Read for a full award of costs against Reigate and Banstead Borough Council.
 - The appeal was against the refusal of planning permission described as the extension of the dropped kerb.
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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. Unreasonable behaviour can be considered as either substantive or procedural in nature.
3. The applicant considers that the Council behaved unreasonably because a previous refusal included an informative stating that "*the objection could be overcome if a local parking assessment is carried out*". The applicant undertook this work employing a Transport Consultant and submitted it to the Council as part of the most recent planning application.
4. Despite undertaking this work, the applicant considers that the Council ignored this informative, failed to consider the evidence submitted or review the previous refusal. Consequently, this caused the applicant to incur additional costs and delays to the project resulting in a refusal of planning permission and an unnecessary appeal.
5. It appears to me that the Council's informative for a parking survey was a suggestion to potentially overcome the previous reason for refusal. The collection of technical data to inform decision making is a logical suggestion to overcome the previous reason for refusal. On this basis I do not find the suggestion to be unreasonable.
6. The informative said that "the objection could be overcome" if this evidence was submitted. The use of the word 'could' implies that the evidence would be subject to the Council's further assessment and there is no guarantee that an approval will automatically follow. I also find this to be clear and reasonable.

7. In their determination of the application, the Council had regard to the previous decision and the parking survey which was also the subject of analysis by their highway's consultee. This is clearly set out in their Delegated Report. Conclusions are reasoned by the Council as a matter of planning judgment. While I have come to a different conclusion than the Council, the Council's position in respect of the evidence is a matter of planning judgement and is fairly reasoned.
8. I am also mindful that the PPG states that awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission. I therefore find, in this case, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is not therefore justified.

N Praine

INSPECTOR