
Costs Decision

Site visit made on 22 June 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2022

Costs application in relation to Appeal Ref: APP/C3620/W/21/3283402 Land South of Betchworth Village Hall, Station Road, Betchworth, Surrey RH3 7DF

- 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 Steve Murphy for a full award of costs against Mole Valley District Council.
 - The appeal was against the refusal of planning permission for development described as 'temporary stationing of 2 No. mobile homes with associated storage containers and temporary fencing in relation to domestic construction works on the address'.
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Decision

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

Reasons

2. The Government's 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 process¹.
3. I appreciate that the applicant did not agree with the way the Council's Planning Committee meeting was conducted and that but for objections the application would have been determined by officers using delegated powers. However, these matters are beyond the scope of my costs decision and the Council made the decision that it did.
4. In essence, the costs application is that given the background context it was unreasonable for members to reject the officer recommendation to grant planning permission, subject to conditions, for the appeal application. In addition, to then refuse the application for the reason that they did. The Council was given the opportunity to comment on the costs application. I have taken comments received into account in my decision.
5. The PPG states that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs².
6. At the Planning Committee meeting, members first granted the applicant planning permission for a new dwelling on the appeal site. That in itself does not mean members were bound to grant planning permission for the appeal

¹ PPG paragraph ID: 16-030-20140306

² PPG paragraph ID: 16-050-20140306

application, which was considered next, and even if an extant prior approval³ contains a provision for the stationing of one mobile home on the site.

7. Members had the benefit of a detailed officer report. It appears they were also advised orally at the meeting about the prior approval development, as well as the reasons why officers considered that there were very special circumstances to recommend granting planning permission for the appeal application. This included the circumstances set out in the applicant's supporting statement and a planning condition to remove the development from the site in the future and restore the land. Members were also advised that retrospective applications for development that has already taken place are procedurally acceptable.
8. Notwithstanding the above, I recognise that the development in the appeal application was already on the site, in the Green Belt, and had been for about a year before the Planning Committee meeting, including for some four months before the appeal application was submitted to the Council. The condition suggested by officers at the time, raised the prospect with members of the development remaining on the site for up to another two years or so.
9. Equally, I appreciate that in his appeal case the applicant has explained why he did not agree with the Council's decision to refuse planning permission, including how the development complies with relevant local and national planning policy and guidance. The Council has submitted a statement at appeal stage and while it largely relies on the officer report, it is entitled to do so. It has also justified its reason for refusal which relates to matters of acknowledged planning interest.
10. While I have reached different conclusions to the Council's members, my appeal decision should not be taken as vindication of the costs application. Members were entitled to make the planning judgement that they did on the question of very special circumstances, with due regard to the officer recommendation, based on the information before them which I consider was adequate for that purpose. Accordingly, and despite a split, albeit clear majority vote, I do not agree that members simply or deliberately 'ignored' the officer advice or indulged local objectors. The applicant's grievance is, fundamentally, a difference of planning judgement.
11. Consequently, these circumstances have led the applicant to decide to pursue the matter through the appeal process. Parties in planning appeals normally meet their own expenses⁴.

Conclusion

12. For the reasons given above, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. A full award of costs is not therefore justified, nor is a partial award for the same reasons.

Robin Buchanan

INSPECTOR

³ Council Ref MO/2019/1189

⁴ PPG paragraph ID: 16-028-20140306