



Costs Decision

Site visit made on 29 June 2022

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 August 2022

Costs application in relation to Appeal Ref: APP/Y3615/W/21/3285048 52 & 54 Weyside Road, Guildford, Surrey GU1 1HX

- 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. A. Richards for a full award of costs against Guildford Borough Council.
 - The appeal was against the refusal of planning permission for is the demolition of 2 semi-detached houses and 2 semi-detached replacement houses.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 on procedural matters by not issuing a decision for 19 months. On substantive matters the unreasonable behaviour is cited as not referring to the previous permissions or taking into account the need for demolition thus requiring a new planning application; by not commenting on the submitted floor risk assessment (FRA); and by not taking into consideration a lack of policy change since the previous approved extension applications.
4. The time taken for the decision to be issued was considerable, and the Council have explained this to be the result of high workloads, COVID19 emergency restrictions and a lack of staff. The applicant at any stage after the expiration of the statutory time limit (as set out in article 34 of the Town and Country Planning (Development Management Procedure (England) Order 2015 (as amended)) could have submitted an appeal against non-determination as well as enacting the planning guarantee. As such there were other courses of action open to the applicant that could have expedited the issuing of a decision, and these were not taken.
5. The application was submitted after the substantial demolition of the original dwellings and the permissions to extend them have expired. Therefore, if the original dwellings still stood new planning applications would have needed to be submitted for the extensions. Notwithstanding this the demolition of the dwellings requires planning permission. The planning process allows for

applications to be submitted retrospectively to ensure, along with other reasons, that when works must be undertaken for safety reasons (as in this case) there is a procedure to allow for the appropriate permission to be sort after the fact. The requirement by the Council for a new planning application to cover the demolition and replacement is not therefore inappropriate nor unreasonable.

6. It is a matter of fact that the appeal site is partially within Flood Zones 2 and 3 and as such an FRA would be required, details of which are set out within the National Planning Policy Framework and Planning Policy Guidance. The submitted information does not comply with or answer the objectives set out in the guidance and therefore is not adequate or appropriate. However, the Council could have been more proactive on this matter and provided the applicant with more details as to what an appropriate FRA of this nature should include, even if it was clear the application was going to fail, rather than simply disregarding the information submitted. This could have allowed the applicant the opportunity to rectify this matter and removing a reason for refusal. Nevertheless, the removal of this reason for refusal would not have made the proposed development acceptable as it was refused on multiple grounds, so in this case, the lack of proactivity does not constitute unreasonable behaviour.
7. It is noted that the policy position should have been the same for the previous extension applications and the application which forms the basis of this appeal. However, the application being appealed also includes the considerations relating to the demolition of the original dwellings and the construction of new dwellings, and therefore is materially different. Nevertheless, the Council did ultimately issue a reasoned decision notice citing relevant development plan policies which complies with section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended. The Council's position in respect of the scheme is therefore a matter of planning judgement and fairly substantiated.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

RJ Redford

INSPECTOR