



Costs Decision

Site visit made on 25 July 2022

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2022

Costs application in relation to Appeal Ref: APP/M3645/W/21/3288150 Land to rear of 180 to 188 Croydon Road, Caterham, Surrey CR3 6QF

- 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 Rob Turner of Turnbull Land for a full award of costs against Tandridge District Council.
 - The appeal was against the refusal of planning permission for the erection of three terraced houses (comprising 2x4 bed and 1x3 bed), with associated access and parking.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The application for costs relates principally to three aspects, namely, a failure of the Council to engage in pre-application discussions with the appellant, making unsupported assertions in their refusal of the application and, failing to withdraw Reasons for Refusal (RfR) 3 and 4 when presented with new evidence.
5. In terms of pre-application discussions, any informal advice provided before an application is made, is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all relevant factors.
6. I understand the sense of frustration that a lack of engagement from the Council, both before the submission and during the consideration of the appeal application might have caused. Had the Council engaged more with the appellant during the course of their consideration of the appeal application, it may well have resulted in a focusing of the issues between the parties. However, that said, there is no evidence to suggest that, if these discussions had taken place, it would have resulted in a situation where the Council's concerns were fully addressed, and the outcome of the appeal application changed.

7. Therefore, on the basis of the information before me, it would not be reasonable to conclude that the Council behaved unreasonably in the procedure leading up to the appeal or in the determination of the appeal application. Therefore, whilst the Council could have engaged better with the appellant, I do not find that it has put the appellant to unnecessary or wasted expense.
8. In relation to the claim that the Council's RfR are unsupported by detailed analysis, I note the contents of the Officer's Report in relation to the harm the proposal would cause. Whilst the Council relied principally upon the Officer's Report to justify their position, I find that the relevant sections of the delegated report and the reasons contained within the Council's decision notice, provide sufficient justification and explanation of the impact of the proposal to support their decision-making process. It therefore follows that I am satisfied that the Council has shown that it was able to substantiate its reason for refusal
9. Turning to the issue of the failure to withdraw RfR 3 and 4. In relation to both RfR 3 and 4, I agree with the appellant, that it would have been helpful if the Council had been able to provide an indication of its position and whether either was sufficient to address the RfRs. That said, given that the additional survey work in relation to car parking and ecology was undertaken prior to the submission of the appeal, there is no evidence to suggest that the Council's failure to withdraw the RfRs put the appellant to any additional expense. Moreover, this additional work was required in any event to address the RfRs, irrespective of whether the Council subsequently chose to not defend these reasons.
10. The Appellant has asked me to also consider a potential partial award of costs in relation to the failure by the Council to withdraw RfR 3 and 4 only. Given my conclusions above, it also follows that I do not consider there to be grounds for a partial award of costs.
11. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Adrian Hunter

INSPECTOR