



---

## Costs Decision

Site visit made on 1 November 2022

**by N Praine BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 November 2022**

---

### **Costs application in relation to APP/A3655/W/22/3290786**

#### **Beech Rise, Lock Lane, Pyrford, Surrey**

- The application is made under the Town and Country Planning Act 1990 (the Act), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by T Lewis for a full award of costs against Woking Borough Council.
  - The appeal was against the refusal of planning permission for an access from Lock Lane.
- 

### **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 by introducing a highway objection when previously the access was shown to be acceptable and not giving an opportunity to overcome the objection; not properly considering the merits of the proposed scheme; and being selective on what they considered as part of the application.

### *Highway Matters*

4. I acknowledge that an earlier planning application for a new dwelling under reference PLAN/2020/0846 also proposed a similar vehicular access and this application was not refused by the Council on highway grounds.
5. However, the Council have confirmed that under this previous application adequate visibility splays were demonstrated. Additionally, between that previous application being determined and the submission of PLAN/2021/0557, new fencing had been erected close to the carriageway.
6. Given that new fencing had been erected and visibility splays were not shown on the submitted drawings associated with PLAN/2021/0557, such fencing could have impacted on whether adequate visibility splays could still be achieved. Given this change in circumstances and lack of evidence showing

adequate visibility, I find the Council was therefore acting reasonably by introducing a highway objection.

7. I acknowledge the highway consultee eventually lifted their objection, but this was after the Council's decision date of 24 August 2021.
8. When a planning application is lodged, the Council is not obliged to provide feedback to the applicant during the application process. The Council has also advised that the applicant received an acknowledgement letter setting out that the application may be determined without further reference to them.
9. However, application documents are made available on the Council's website for applicants to check for updates. While I acknowledge there may have been some issues with postcode searches on the website, there is no evidence to suggest the Council's website did not give access to the application documents when the planning reference number or other parts of the address were used.
10. I therefore find that the Council has not acted unreasonably in regard to these matters.

#### *Consideration of the scheme*

11. The Council set out the policy context as part of its delegation report and in coming to its decision, the Council applied development plan policy in line with section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended).
12. The decision notice provides a precise and specific reason for refusal clearly stating the development plan policies that the Council found the proposal to conflict with. The apportionment of weight is a matter for the decision maker and the Council was entitled to reach its own conclusion exercising planning judgment. The Council's position in respect of the scheme is therefore logical and fairly substantiated. I find this to be a reasonable approach.

#### *Development Under Consideration*

13. While a sliding gate and brick piers were shown on the site plan, elevation drawings were not provided. In addition, the application form submitted with the appeal states at question 3 that the development would be for an 'access from Lock Lane'. Whether or not the gate and piers should have been considered is a matter for the Council and the applicant. As this did not form part of the application or subsequent appeal, it is not a matter for me to consider further.

#### **Conclusion**

14. As a result, having carefully considered the above, I conclude that unreasonable behaviour by the Council, as described in the Guidance, has not been clearly demonstrated. Therefore, in my view, unnecessary or wasted expense has not been incurred by the applicant. Consequently, the application for an award of costs is refused.

*N Praine*

INSPECTOR