



Costs Decision

Site visit made on 22 November 2022

by R Naylor Bsc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Costs application in relation to Appeal Ref: APP/L3625/W/21/3285868 Ladyland Farm, Meath Green Lane, Horley RH6 8JA

- 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 and Mrs P Samouel C/o White and Sons for a full award of costs against Reigate and Banstead Borough Council.
 - The appeal was against the refusal of to grant approval required under Schedule 2, Part 6, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a new road. 180.0 m in length, 6.0 m. in width. Natural chalk surface over hardcore base/type 3 aggregate (within RPA).
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Decision

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

Reasons

2. The 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 process. Unreasonable behaviour can be procedural, or it can relate to the substance of the matters under consideration as part of the appeal.
3. The applicant submits that the Council has acted unreasonably in that there has been a lack of co-operation between the parties and that the correct procedure has not been followed in the determination of the prior approval application.
4. In this case, I have noted the recommendation of the Council in that prior approval is required. My decision highlights that the applicant has failed to undertake the appropriate publicity requirements following notification that prior approval was required, and no evidence has been presented that this requirement has been completed. Without the formal consultation having been undertaken, the private way is not considered permitted development and subsequently neither is the access to the highway under the relevant sections of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO).
5. The Council was therefore justified in its decision on the basis that relevant requirements under GPDO have not been complied with, which would have deprived those who should have been consulted on the opportunity for comment.

6. The applicant has also expressed concerns regarding a lack of communication during the application process, further stating that the Council did not request any evidence that the requisite site notice had been erected or the consultation having been undertaken. However, this evidence has not been forthcoming as part of either the application or appeal process, hence my overall conclusion that the appeal should be dismissed. Whilst this lack of communication was frustrating to the applicant, there is no substantive evidence before me that the applicant incurred any unnecessary expense as a result of any communication issues. Therefore, I cannot conclude that the Council had behaved unreasonably in the procedure leading up to the appeal.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for costs is refused.

Robert Naylor

INSPECTOR