



Costs Decision

Site visit made on 24 January 2023

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 MARCH 2023

Costs application in relation to Appeal Ref: APP/D3640/W/22/3291501 Land at Hillside House, 23 High View Road, Lightwater, Surrey GU18 5YF

- 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 Alan Ingram for a full award of costs against Surrey Heath Borough Council.
 - The appeal was against the refusal of planning permission for: Continued use of the existing swimming pool to provide swimming lessons to the community.
-

Decision

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

The submissions

2. The reasons given for the costs application are summarised as follows:
 - The Council failed to engage with the applicant in agreeing a condition that would allow the development to be permitted with sufficient control;
 - The Council delayed the determination of the application on the basis that it was considering appropriate conditions, which were never provided to the applicant for consideration; and
 - By failing to work constructively with the applicant, this has resulted in the need to make two appeals.

Reasons

3. Paragraph 030 of the Planning Practice Guidance on Appeals (the PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
4. Paragraphs 047 and 049 of the PPG provides examples of unreasonable behaviour on the part of the local planning authority. Some that might be relevant to this costs application include:
 - preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and
 - a lack of co-operation with the other party or parties.
5. I can see that the Council communicated with the applicant during the determination of the planning application. The Council also say that, at the outset, it appeared that a solution could be found. This suggests that the

Council were working to find a way of permitting the scheme. However, I can see that, having regard to the extent of the use for which the applicant sought permission, the Council concluded that it could not support the development.

6. Planning applications of this nature should be determined within 8 weeks. In this case there was a period of over four months between the submission of the planning application and its determination. Other than a few exchanges between the parties regarding the condition that might control the extent of the use, I cannot see any other reason why the determination of the application was delayed. The applicant's timeline also suggests that he responded fairly promptly to correspondence from the Council, indicating that the fault for the delay did not rest with him.
7. Had I allowed the appeal and found clear reasons for doing so, I might have concluded that the Council behaved unreasonably in delaying development which should clearly be permitted. I am, however, mindful that the use continued in some form during the determination of the planning application and the appeal. Nevertheless, I have concluded that permission should not be granted. The Council gave robust reasons for refusing the application. Accordingly, even if the application had been determined in a timely manner, the appeal against the refusal of permission would not have been avoided.
8. The applicant also refers to the appeal he made against the enforcement notice issued after the determination of the planning application. I do not, however, find the Council to have behaved unreasonably in issuing the notice. The Council have the power to issue an enforcement notice where it appears that there is a breach of planning control, and it considers it expedient to pursue enforcement action.
9. To conclude, whilst the Council may have acted unreasonably in delaying the determination of the planning application, this did not result in unnecessary or wasted expense during the appeal process. Accordingly, an award for costs is not justified.

J Moss

INSPECTOR