



Costs Decision

Site visit made on 23 February 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Costs application in relation to Appeal Ref: APP/Y3615/D/22/3305071 Beech Cottage, Wisley Lane, Wisley GU23 6QN

- 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 Neel Ramanandi for a full award of costs against Guildford Borough Council.
 - The appeal was against the refusal of planning permission for part single/part two storey rear/side extensions (part retrospective).
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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 where the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal and with respect to the substance of the matter under appeal. Examples of unreasonable behaviour may include preventing or delaying development which should clearly be permitted or failure to produce evidence to substantiate each reason for refusal on appeal.
4. The applicant for costs contends the appeal could have been avoided had the Council offered a pre-application advice service, however this was not available due to ongoing impacts associated with the coronavirus (COVID-19) pandemic. They also consider the application process was protracted and the Council did not take a positive and proactive approach to determining the appeal proposal. Employing a planning consultant in pursuance of the appeal has cost the applicant.
5. Only the unnecessary or wasted costs of the appeal itself can be recovered by an award of costs. The reason for refusal is set out clearly in the Council's decision notice. Justification is provided in the Council's Officer Report, with reference to relevant national and local planning policy. It will be seen from my decision that I agree with the Council's judgement in this instance and consider there were sufficient grounds for refusing planning permission. I therefore do not consider that the Council has acted unreasonably in this regard.

6. I recognise the applicant's frustrations regarding the time taken to determine the planning application and the level of engagement offered by the Council both before and during the application process. The PPG and National Planning Policy Framework encourage local planning authorities to take a positive approach and work proactively with applicants. However, there is no statutory requirement to offer a pre-application advice service. Furthermore, where such services are offered, I do not consider it unreasonable for the Council to suspend them at times when local authority resources are under pressure.
7. The Council's decision notice indicates that minor alterations would not have overcome their objections to the scheme, and therefore it was not considered appropriate to seek amendments through the course of the application. The evidence before me does not clearly indicate that the views of both parties could have been reconciled had further discussions taken place during the determination period, or that the Council was under an obligation to work with the applicant during this time. There is therefore no compelling evidence before me to substantiate that the Council's handling of the planning application was deficient in these respects.
8. While the delay in determining the application is regrettable, the Council did ultimately refuse the application. Therefore, as the appeal was inevitable, the appellant did not incur any wasted expense in defending the appeal as a consequence of this delay. This is not "unreasonable" in the terms of the PPG.

Conclusion

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

Ryan Cowley

INSPECTOR