The Planning Inspectorate

Costs Decision

Site visit made on 6 March 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 MAY 2023

Costs application in relation to Appeal Ref: APP/M3645/W/22/3291909
Land North of Croydon Barn Lane, South Godstone, Surrey, RH6 9JY

- 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 & Mrs K Exall for a full award of costs against Tandridge District Council.
- The appeal was against the refusal of planning permission for the change of use of land to private equestrian purposes, along with the erection of a building to accommodate three stables, a hay barn and tack room together with a manège'

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) makes it clear that parties in planning appeals normally meet their own expenses. It also sets out that costs may only 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.

3. Paragraph 49 - 16-052-20140306 of the PPG sets out that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals.

4. Unreasonable behaviour may include failure by the planning authority to substantiate a stated reason for refusal of planning permission or relate to a procedural process. There is no obligation for the Council to provide a statement of case, and the Council in this instance has relied on their delegated report, except for where they wish to dispute specific sections of the appellant's Appeal Statement. Whilst the Council is mostly silent on matters relating to paragraph 11 of the National Planning Policy Framework (Framework), the meaning of the word 'preserve' and other issues raised by the applicant in their planning statement, it does not follow that the reason for refusal is not substantiated.

5. The reason for refusal is substantiated within the Council's delegated report, the issues they have with the proposed scheme are clear and national and local policies are referred to. There is a disagreement with regards to the particulars and interpretation of Green Belt policy and the issue of inappropriateness and openness. The Council has set out their case, and whilst I recognise the applicant's well-reasoned arguments, the areas in dispute relate to matters of subjective planning judgement. As is evident from my decision, I agree with the Council, and I do not therefore consider that the Council prevented or delayed development which should clearly be permitted.

6. Whilst there is differing wording used by the Council in the applications referred to by the applicants[1], in addition to the previous applications on the appeal site[2], however there is consistency with the policy approach. In each case the Council recognised the development as the provision of appropriate facilities for outdoor sport or outdoor recreation, referencing paragraph 149 of the Framework (2021) (or previously appropriate paragraphs), and requirement to consider whether the development preserves the openness of the Green Belt and whether it conflicts with the purposes of including land within it. I do not therefore consider that the Council has acted inconsistently nor contrary to well-established case law.

7. I note that the Council indicated within their appeal questionnaire that they would not be providing a Statement of Case, only to then submit one. However, I do not consider that this has led to unnecessary expense for the applicant.

8. Unreasonable behaviour has not therefore been demonstrated in respect of these matters. The work undertaken by the applicant in this regard was a necessary part of their case.

Conclusion

9. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for an award of costs is therefore refused.

B Phillips

INSPECTOR

[1] Application references TA/2017/1501 & TA/2021/423

[2] Application references TA/2017/1968 & TA/20202/1589