



Costs Decision

Hearing opened on 2 November 2022

Site visit made on 2 November 2022

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

Costs application in relation to Appeal Ref: APP/R3650/W/21/3288515 Old Stone Yard, Tongham Road, Runfold GU10 1PH

- 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 John Searle for a partial or full award of costs against Waverley Borough Council.
 - The hearing was in connection with an appeal against the refusal of the Council to grant planning permission for the provision of 3 additional gypsy pitches together with associated works (as amended by plans received 24.09.2021).
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Decision

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

Application context

2. Prior to the close of the Hearing the appellant made an application for a full or partial award of costs against the Council. The application was made in writing and I have had full regard to its contents. The Council were given the opportunity to respond and this was also made in writing.

The submissions for Mr John Searle

3. The essence of the applicant's application is that the Council were unreasonable, in so far as they have failed to substantiate their reasons for refusal and their approach to the planning balance was flawed. In particular: The effect of the development on the strategic gap; The potential for the development to cause noise and disturbance; and Their assessment of the amenity space.
4. He also submits that the introduction of late evidence regarding the modifications to the allocation of the appeal site resulting from LP part 2 examination and an appeal decision at Stovolds Hill (APP/R3650/W/22/3297332).
5. The applicant submits that the above matters have resulted in additional costs.

The response by Waverley Borough Council

6. In response, the Council maintain that matters relating to the effect of the development on the Strategic Gap, noise and disturbance and amenity space are all matters of planning judgement. With regard to Policy DM37 the Council confirmed the status of this Policy at the time of their decision and that they

gave it only limited weight, both in their assessment of the application and response to this appeal. They go on to submit that the introduction of the appeal decision at Stovolds Hill raised no new issues and just re-enforced their approach to 'Unknowns' in their assessment of need.

Reasons

7. Parties in planning appeals and other planning proceedings are normally expected to meet their own expenses. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, 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.
8. Having considered all of the available evidence, in my decision on the substantive appeals, I took a different view to that of the Council on the effect of the development on the area, available amenity space and the effect of the development on neighbouring development. However, whilst I did not agree, the Council defended their position in their appeal statement and at the Hearing. These are matters of planning judgement and the Council's arguments were not without merit. Accordingly, I do not consider that the Council's position was unreasonable.
9. With regard to the question of late evidence, I acknowledge that the Council could have provided this at an earlier stage, given that the date of that decision was 16 September 2022. However, the substance of the evidence does not introduce any substantive new issues, rather it seeks to clarify how the Council, and a previous Inspector, had addressed the assessment of need in the Borough.
10. Similarly, the consideration of amenity space requirements for this type of development could have been more explicitly raised at an earlier stage during the appeal process. Nonetheless I recognise that it previously formed part of the subtext of the LPP2 Pre-submission document (LPP2 Site Allocations and DM Policies (2020)), before coming forward into Policy DM37. Given the limited weight that had been attributed to this Policy by the Council, I am not persuaded that this represented unreasonable behaviour that resulted in wasted costs.
11. Accordingly, on the basis of the information before me, I do not consider that the Council has acted unreasonably, either in the defence of their position, or in the procedure throughout this appeal, such that the applicant has incurred unnecessary or wasted expenses.

Conclusion

12. Overall and for the above reasons, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated in this instance. Accordingly, I refuse the application for an award of costs against the Council.

Hilary Orr

INSPECTOR