



Costs Decision

Site visit made on 5 May 2023

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2023.

Costs application in relation to Appeal Ref: APP/R3650/D/23/3318191 Maroussi, Weydown Road, Haslemere, GU27 1DR

- 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 Normanton for a full award of costs against Waverley Borough Council.
 - The appeal was against the refusal of planning permission for a detached garage with room over.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellant's application for costs raises both substantive and procedural points. The PPG states that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal or if they have behaved unreasonably from a procedural point of view.
4. The appellant contends that the local planning authority (LPA) failed to engage with the appellant at the application stage or on amendments to address Officers concerns, that there were unnecessary delays in processing the application and errors in both the Officers Delegated Report and subsequent notice of refusal.
5. Most of the appellant's concerns in this respect relate to the period leading up to the determination of the planning application. The PPG confirms that costs cannot be claimed in such circumstances, but that the behaviour at the time of the determination of the planning application can be taken into account when considering whether or not costs should be awarded in relation to unreasonable behaviour during the appeal process.
6. In relation to the concerns raised regarding the change of Officers views, it is not uncommon for a line Manager or a more Senior Officer to disagree with a Case Officers recommendation and that is always a potential outcome of the delegated process where recommendations are checked and signed off, and a different planning judgement is sometimes reached in relation to the proposal.

7. Consequently, any outstanding complaints that the appellant may have in relation to the administration of the planning application and/or the authority's procedures, delays or errors, including failure to engage with the appellant, are matters that should, in my view, be taken up directly with the LPA.
8. On the substantive point, the appellant alleges that the errors in the Officers Delegated Report could have unduly influenced their views on the proposal and raises questions over whether Officers were looking at the correct drawings and not those that accompanied a previously withdrawn application. As such, the Council prevented development which should have been permitted.
9. Whilst I have found the appeal proposal to be acceptable in relation to its impact on the character of the area, that finding was based on the evidence presented by the LPA, the policies of the development plan and the National Planning Policy Framework, and my own observations on site.
10. The LPA's evidence comprised its reason for refusal, Delegated Report and relevant policy documents. These provided, in my view, a precise explanation of the LPA's objections to the appeal scheme. The evidence submitted was consistent with the guidance on Householder Appeals set out in the Procedural Guide – Planning Appeals – England (December 2022). Paragraphs C.7.2 – 7.3 to Annex C of this Guide state that a LPA's case should comprise its reasons for refusal, report and any documents that accompany its Questionnaire. I am satisfied that the information submitted by the LPA enabled me to fully understand their objections to the appeal proposal.
11. In relation to the character of the area, such an assessment is subjective and is a matter of judgement, on which opinions will differ. It is also for the decision-maker to decide what weight should be accorded to such factors, as well as, as in this case, comparisons between the appeal proposal and a previous expired planning permission for a similar development on the site. In relation to the examples of other approved developments in the area, no two cases are ever the same or in my view directly comparable.
12. I cannot agree therefore that the LPA has acted unreasonably in this case.
13. For the above reasons, I find that the appellant was not put to unnecessary or wasted expense in the appeal.

Conclusion

14. I find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated. An award of costs is therefore not justified.

G Roberts

INSPECTOR