



Costs Decision

Site visit made on 3 May 2022 by J E Jolly BA (Hons) MA MSc MCIH MRTPI

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2023

Costs application in relation to Appeal Ref: APP/Y3615/W/21/3276076 Land r/o Christmas Hill & Crossways, Chinthurst Lane, Shalford GU4 8JS

- 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 Toby Shea for a full award of costs against Guildford Borough Council.
 - The appeal was against the refusal of planning permission for the erection of two detached dwellings with detached garages/outbuildings together with associated landscaping.
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Decision

1. This decision supersedes that issued on 6 May 2022 which was quashed by an Order dated 13 October 2022.
2. The application for an award of costs is refused.

Procedural Matter

3. This decision is a redetermination following the quashing of the previous costs decision by the High Court. I have had regard to the previous costs decision letter, in so far as it forms a material consideration, but have determined the costs application afresh. In doing so, I have taken into account further submissions from the main parties made at the redetermination stage. The original appeal decision has not been quashed and remains extant.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. The appellant's claim, in short, is that the Council acted unreasonably in failing to undertake a site visit for the application and changing planning officers two days prior to the decision. This meant that the planning officer was unable to make a full assessment of the proposal, in particular as the landscaping of the site had changed significantly since the last visit by the previous officer in respect of an earlier application.
6. The Council responds that the original planning officer's personal circumstances prevented her from attending site during the Covid-19 pandemic, but that officers had detailed knowledge of the site from previous applications, with the preceding visit having been on 8 July 2020 and the application in question decided some eight months later on 4 March 2021. The previous applications and subsequent appeal decisions were also important material considerations in the Council's overall assessment of the proposal.

7. Though site visits are routinely undertaken and encouraged, they are not mandatory. In this case, the appeal had two main issues, the effect of the proposal on the character and appearance of the area and the effect on an Area of Great Landscape Value (AGLV). The Inspector determining the appeal concluded similarly to the Council on both main issues.
8. The issue of character and appearance turned principally on matters of site layout, 'backland' development, the scale of the dwellings and their specific design, including roofscapes and fenestration. Such matters can be sufficiently understood from the plans and with reference to other desk-based evidence, such as aerial photography and street view imagery, but in this case were supplemented by Council officers' observations at prior site visits and retained knowledge thereof. There is no strong evidence to suggest that the wider pattern of built development and style of dwellings in the immediate area had materially changed in the time between the last visit by an officer and the decision to refuse permission, such that the Council's pre-existing knowledge of the area was no longer reflective of the situation on the ground. Given this, there are no firm reasons to believe that the Council not undertaking a site visit meant that it failed to have regard to a relevant material consideration in refusing permission on this first main issue.
9. On the second main issue, the Council acknowledged in its delegated report that additional landscape planting had taken place but concluded that this was not sufficient to overcome the harm identified to the AGLV. The contention that the Council would have formed a different view and granted permission had an officer visited the site to see the planting is speculative, as there is simply no substantive evidence to indicate this would have been the case, particularly in light of the detailed planning history which formed an important part of the Council's considerations. There was evidence within the application, including a Landscape and Visual Appraisal with photographs and visualisations, and across the site's planning history that enabled the Council to form a view on this issue and later substantiate it at appeal. Moreover, even if the Council's assessment were deemed to be less than robust due to the lack of a site visit, the Inspector ultimately agreed with the Council having undertaken her own inspection and considered the appellant's arguments on this issue.
10. For these reasons, I find that the Council's lack of a site visit in this case does not amount to unreasonable behaviour. However, even if I found unreasonable behaviour had occurred, for costs to be awarded the behaviour must be shown to have resulted in wasted expense for the appellant. As the appeal was dismissed on both main issues, the Council was justified in refusing permission and the appeal was not unnecessary but for the Council's actions. There is no firm evidence to suggest that a site visit would have altered the Council's position and so an appeal would have resulted in any event. Moreover, given the outcome of the appeal, the Council's actions did not prevent or delay development which should have been permitted. On that basis, the appeal did not involve the applicant in unnecessary or wasted expense.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K. Savage

INSPECTOR