



Costs Decision

Site visit made on 5 January 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 06 February 2024

Costs application in relation to Appeal Ref: APP/X0360/W/23/3322710 5A, 5B and 5C Mayfields, Sindlesham, Wokingham RG41 5BY

- 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 Farley Construction Limited for a full award of costs against Wokingham Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 3 detached dwellings with associated access and parking following partial demolition of the existing dwelling without complying with conditions attached to planning permission Ref F/2014/2581, dated 11 March 2015.
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Decision

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

Reasons

2. 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.
3. The application essentially relies on the fact that the applicant considers that the Council Officers provided inconsistent advice which necessitated the production of revised drawings only for the Council Members to refuse the application against their Officers advice.
4. However, I do not consider that the Council has acted unreasonably. The applicant in this case has decided to not comply with a number of conditions that were imposed on a planning permission for the erection of 3 detached dwellings with associated access and parking following partial demolition of an existing dwelling.
5. Not surprisingly, this led to the enforcement team at the Council getting involved. From what I have seen they engaged constructively with the applicant, including advising on more than one occasion that an application to regularise any changes made would be necessary.
6. The applicant has provided an e mail chain and highlighted a particular sentence which they consider indicates that the changes to the as built scheme were agreed which they understood to mean that they were acceptable in planning terms. However, the context of the e mail is very important. The e mail was written following a site visit by the relevant Officer where certain remediation works were viewed and discussed. The e mail confirms that the

applicant agreed to submit a planning application to formalise the changes to the site layout.

7. It is in that context that I have considered the extract provided by the applicant. Rather than taking only one sentence in isolation, I have considered the entire paragraph which reads as follows; *"Regarding the planning application, this is crucial as currently the development as a whole is unlawful due to the changes to the layout and non-compliance with Conditions. While we have agreed to these changes, these now need to be formalised so that there are no consequential issues. For example it would restrict the owner of 5c's ability to sell and move on if that was their intention, or find a buyer should you and your wife no longer wish to rent out the remaining properties."*
8. To my mind, the Officer is acting entirely reasonably in setting out that although he, as an individual Officer in providing informal advice agrees with the proposed changes, that is not the end of the process. He goes on to make it clear that he is unable to formally agree such changes and highlights that it is now crucial that the applicant submits a formal application to regularise the situation.
9. That is what happened, and a formal application was submitted. During that process, other changes were suggested to address certain concerns raised by the relevant highways and the landscape Officers. Again, this is entirely reasonable, and it is a common occurrence for there to be constructive engagement during the application process. This process ultimately led to the relevant Officers recommending that the application should be approved, albeit while retaining their concern about the lack of cycle parking/storage but suggesting relevant conditions could be re-imposed to cover this matter.
10. In this case I have noted the recommendation of the Council Officers to approve the application. However, Council Members were entitled not to accept the professional advice of Officers so long as they can reasonably substantiate each reason for refusal.
11. It will be seen from my decision that in relation to the impact of the proposal on the character and appearance of the area and on the need to provide separate cycle parking/storage I agree with Council Members and that there were sufficient grounds to dismiss the appeal. Moreover, in relation to the parking arrangements although I ultimately did not reach the same view, given the sub-standard dimensions of the parking spaces as demarcated by block paving, I am satisfied that the Council did not act unreasonably in refusing the application on that ground.
12. As result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to any unnecessary or wasted expense.

Conclusion

13. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

S Rawle

INSPECTOR