



Costs Decision

Site visit made on 27 March 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 July 2024

Costs application in relation to Appeal Ref: APP/Y3615/W/23/3330168 16 Curlew Gardens, Guildford GU4 7DY

- 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 Tim Parker for a full award of costs against Guildford Borough Council.
 - The appeal was against the refusal of the removal of condition 6 of planning permission 79/P/00139, approved on 22/06/1979, to allow permitted development rights (enlargements and other alterations) to be reinstated to the properties approved by the original permission.
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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 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.
5. In this instance, whilst the reason given for the original condition is vague, the Council have set out their reasons for considering the condition remains appropriate within the officer report, as is their assessment against the relevant tests set out in the National Planning Policy Framework.
6. Whilst I have found that these reasons do not meet the threshold for exceptional circumstances as required by the PPG, this is a matter of judgement. Given the lack of statement of case, the other areas and inconsistency referenced by the appellant is not addressed, however I find that that the Council have substantiated the reason for refusal. The pre-application advice¹ received mostly related to a proposed loft conversion and only briefly touched upon the reinstatement of permitted development rights. Whilst this

¹ Reference 21/A/00030

advice did not reference all other relevant conditions, it does set out that the Council would likely seek to retain permitted development rights.

7. Accordingly, it has not been demonstrated that the applicant's time and expense in defending this matter was not necessary and has resulted in unnecessary or wasted expense on their behalf.

Conclusions

8. 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