



Costs Decision

Site visit made on 13 September 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2024

Costs application in relation to Appeal Ref: APP/D3640/W/24/3338888 The Pines , Brentmoor Road, West End, Woking GU24 9QQ

- 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 and Mrs Churchill for a full award of costs against Surrey Heath Borough Council.
 - The appeal was against the refusal of an application to remove condition 4 of a planning permission for 'erection of a two storey dwelling house with detached garage/stable following demolition of existing house and detached garage/ stable'.
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Decision

1. The application for 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 applicants consider that the Council failed to properly consider the application by considering it under the relevant tests for planning conditions. The Council's officer report acknowledges the tests for conditions, stating that they should be necessary, relevant and among other criteria, reasonable. In addition, the Council went on to consider the reasons why the condition was originally imposed and how it considered the exercise of permitted development rights would be harmful. The reason for refusal refers to Policy DM9 and the officer report sets out that this relates to that policy's desire for development to preserve or enhance local character. While the Council repeatedly refer to Green Belt matters, which was not among the reason for the condition, it does explain that it considered openness to be part of the character of the area which the condition sought to maintain.
4. While the National Planning Policy Framework (the Framework) and the PPG are discouraging of the approach to the removal of permitted development rights, they nonetheless make clear that it can be done where there is clear justification. As such, the advice in these documents does not automatically deem the Council's conclusions unreasonable, and the Council acknowledged these relevant parts of the Framework and the PPG in its officer report.
5. Overall, while I have not agreed with the Council's assessment, it nonetheless adequately substantiated its approach both in its officer report and during the appeal. Neither is the development one which should necessarily have clearly been permitted.

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6. In conclusion, for the reasons given, unreasonable behaviour, directly causing the applicants to incur unnecessary or wasted expense in the appeal process, has not been demonstrated.

C Shearing

INSPECTOR