



Costs Decision

Site visit made on 1 October 2024

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

Costs application in relation to Appeal Ref: APP/L3625/W/24/3346944 Land to the rear of 59 and 61 Nork Way, Banstead, SM7 1HL

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Trinity Square Developments for a full award of costs against Reigate and Banstead Borough Council.
 - The appeal was against the refusal of planning permission for erection of 2 x 4-bedroom detached dwelling with associated access, parking and landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 applicant's application for costs is based on the alleged unreasonable behaviour of the Council and wasted expense. In particular, it is alleged that the Council's Planning Committee acted 'irrationally and despondently' by going against the planning officer recommendations.
4. The PPG¹ advises that a local planning authority could be at risk of a substantive 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, failing to produce evidence to substantiate each reason for refusal, or vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. In this case I have noted the recommendation of the Council's officers. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
6. Whilst it will be seen from my decision that I have come to a different conclusion to the Council in relation to the effect of the proposed development on the character and appearance of the area, the decision is one which is a matter of judgement. There are a variety of plot sizes in the immediate locality of the appeal proposal, including some which are larger than those of the

¹ Paragraph: 049 Reference ID: 16-049-20140306

appeal proposal and it was not therefore unreasonable for the Council to reach a different conclusion.

7. I acknowledge that the access road has been partly constructed, however the access road currently terminates at the side of 61 Nork Way. It was not unreasonable for the Council to consider the full visual impact of the access road extending deeper into the site and its more intensive use in association with two new dwellings. These again are matters of subjective judgment and the Council has not acted unreasonably in reaching its decision.
8. Whilst the Planning Committee discussed a wide range of issues in relation to the proposed development and the area, including the replacement on-street parking spaces, this is not unexpected and is part of the normal decision-making process. The Council have not therefore, acted unreasonably in this regard.
9. Furthermore, the Council have clearly substantiated the reasons for refusal within their statement of case. The costs incurred by the appellant in pursuing the appeal were the normal costs arising when the right of appeal is exercised.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Consequently, an award of costs is not justified.

J Davis

INSPECTOR