



Costs Decision

Site visit made on 12 November 2024

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2024

Costs application in relation to Appeal Ref: APP/N1730/W/24/3348509 Woodside, Cove Road, Fleet, Hampshire GU51 2RR

- 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 Sheridan Wingett for a full award of costs against Hart District Council.
 - The appeal was against the grant subject to conditions of planning permission for the construction of a detached three bedroom dwelling with associated parking, access and garden.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities, one of which is the imposition of a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework (the Framework) on planning conditions and obligations.
4. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The PPG also advises that conditions restricting permitted development rights should only be imposed in exceptional circumstances.
5. There is nothing in the Officer's Report or Decision Notice that justifies that the proposed development would only be acceptable if the Permitted Development Rights as set out in Class E of Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) were removed. Whilst the Council's Statement of Case provides more explanation as to why the removal of Class E was considered necessary, given the clear advice set out in the Framework and PPG, I consider that the Council has still not provided sufficient justification nor have exceptional circumstances been demonstrated.
6. Whilst the figures provided by the Council in terms of calculating the area around the dwelling may be correct, as I have concluded in my main decision, I am satisfied that the number of limitations and conditions that are contained

- within Class E, including the scale, height, siting and relationship with the boundary of the curtilage of the dwelling and the total area covered by buildings would be sufficient in themselves to protect the character and appearance of the area and the living conditions of neighbouring occupants.
7. I acknowledge that just because the Council has 'granted planning permission for the subdivision of the site and a new dwelling, does not mean that any additional development in the reduced resulting curtilages would be acceptable in terms of local character and neighbouring amenity'. However, the Council has not demonstrated why the circumstances of the appeal proposal would be 'exceptional' and would justify the imposition of a condition to remove the permitted development rights as set out in Class E. In addition, as I have found in my main decision, the Council has not provided me with any clear evidence in regard to which 'neighbouring properties' they are particularly concerned about the impact on, which would provide particular justification for the removal of the rights under Class E, especially in view of the extant permission for the care home next door¹.
 8. Accordingly, as I have concluded in my main decision, I have found that the disputed condition, specifically the removal of the provisions of Class E, is not reasonable or necessary in the interests of the character and appearance of the area nor in the interests of the living conditions of neighbouring occupants. The relevant tests in the Framework and the PPG have not been met in this case.
 9. Therefore, having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been permitted without a condition which removed permitted development rights as set out in Class E of the GPDO. The granting of planning permission with such a condition therefore constitutes unreasonable behaviour contrary to the guidance in the Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.
 10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and a full award of costs is therefore warranted.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Hart District Council shall pay to Sheridan Wingett, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Hart District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Laura Cuthbert

INSPECTOR

¹ Planning Application Ref 22/02520/FUL, allowed under appeal ref APP/N1730/W/23/33119799.