
Costs Decision

Site visit made on 6 December 2024

by **Lewis Condé BSc, MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th February 2025

Costs application in relation to Appeal Ref: APP/X0360/W/24/3336778

- 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 Wokingham Borough Council for a partial award of costs against Russell Highbury Properties Limited.
- The appeal was against the refusal of planning permission for the development of 1 detached 5 bed house.

247 Finchampstead Road, Finchampstead, Wokingham RG40 3JR

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 further provides examples of the type of behaviours that may lead to an award of costs, this may include only supplying relevant information at appeal when it was requested (but not provided) at application stage, and a lack of co-operation between parties.
4. The Council's case essentially relies on the fact that an arboricultural impact assessment plan has been submitted during the appeal that was not provided at the application stage, despite requests for such information from the Council. It is claimed that this information could have been reasonably provided at the application stage and that the appellant's lack of co-operation is unreasonable behaviour. Furthermore, the Council claims that this has led to additional work, particularly for the tree and landscape officer who has had to consider the additional evidence during the appeal. The Council has also indicated that the appellant has acted unreasonably through seeking to progress a Section 106 legal agreement (S106) at a late stage of the appeal process.
5. The application was refused on several grounds, as such, even if the appellant had submitted the requested arboricultural information during the determination of the planning application, an appeal would have still been necessary.
6. As will be seen from my appeal decision, arboricultural matters were not fundamental to the overall decision that I reached. Furthermore, had the appellant submitted the requested arboricultural evidence during the application process, it would still have remained necessary for the Council officers to review and respond

to the submitted information. Indeed, it is evident from the appeal submissions that the Council's tree/landscape officer was not content with the findings of the arboricultural evidence submitted during the appeal. Had this information therefore been provided during the application process, as requested, it may have potentially led to increased levels of work for the tree officer/planning officer through additional discussions and/or information being exchanged between relevant main parties.

7. Meanwhile, although it would have been good practice for the appellant to have sought to execute the S106 at an earlier stage, the work that has been undertaken would have remained necessary. The costs associated with the production of the legal agreement were also the responsibility of the appellant, whilst the Council's legal team were also not obligated to produce it at very short notice to comply with the appellant's requested timescales.
8. Consequently, whilst a more co-operative approach from the appellant would have been preferential, I do not find that the appellant's actions amount to unreasonable behaviour that has resulted in unnecessary or wasted expense. An award of costs is therefore not warranted.

Lewis Condé

INSPECTOR