



Costs Decision

Site visit made on 25 February 2025

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 April 2025

Costs application in relation to Appeal Ref: APP/D3640/W/24/3348276

Land North of Church Hall, Tekels Park, Camberley, Surrey GU15 2LF

- 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 Quinttessentially Surrey Ltd for a full award of costs against Surrey Heath Borough Council.
 - The appeal was against the refusal of planning permission for Erection of a 1.5 storey dwelling with vehicular access, associated landscaping and removal of 1 existing parking bay.
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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 also advises that where local planning authorities have exercised their duty to determine a planning application in a reasonable manner, they should not be liable for an award of costs. Where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application.
4. The application for costs is made on procedural and substantive grounds, and the applicant seeks costs incurred for the appeal, and those incurred by the submission of a planning application to remove a parking bay(s) in light of the second reason for refusal of the appealed application.
5. The applicant claims that there has been no material change in policy since the advice taken in 2022 as part of a previous planning application ref 21/1319/FFU to reduce the scheme; and that contrary to the exclusion of the site from the Green Space designation, the Council now consider no development is appropriate on the site. Further that a revised scheme would not have been submitted had this been the advice given by the Council back in 2022. However, the details of the advice in 2022 are not before me, and the Council's cost rebuttal indicates that no formal pre-application advice was sought following the refusal of application ref 21/1319/FFU.

6. The applicant's evidence includes email exchanges prior to the refusal of the appealed application. This demonstrates the case officer's view that "*The erection of a detached dwelling would result in the loss of this important area to the detriment of the street scene*" and that the applicant sought to clarify whether the principle of development was acceptable. The Council does not dispute that no response was made or received, and I accept the Council's position that officers' views are not formal pre-application advice and are not binding. In any event, the first reason for refusal clearly relates to the effect of the proposal upon the character and appearance of the area, and not the principle of development, which is clearly accepted in the Council's officer report which considered the application (OR), and in the Council's statement of case to the appeal.
7. The applicant also claims that the Council in their role as the local planning authority (LPA) has behaved unreasonably in their failure to provide or make available the submitted application documents to statutory consultees, and by failing to review all submitted documents themselves, which has led to the second reason for refusal, and an inaccurate assessment of the case. The second reason for refusal concerns a failure to demonstrate that visibility splays would be provided when vehicles are parked in non-assigned parking spaces.
8. The relevant local highway authority (LHA) is Surrey County Council. The applicant raised concerns by email on 6 February 2024 that a consultation response from the LHA dated 31 January 2024 indicated that the applicant's parking survey was not available to review; and that the comments of the Council's Tree Officer dated 5 February 2024 indicated there were no arboricultural reports. The OR clearly indicates that the Council's Tree Officer took account of the relevant reports and made no objection to the proposal.
9. It is clear that the relevant documents were submitted with the application in December 2023. The Council accepts that it failed to make the parking survey available on its website such that it could be viewed by the LHA at the time the consultation was made and advises that it was subsequently uploaded. There is no evidence before me of any response or acknowledgement from the Council to the applicant's concerns. Moreover, there is no evidence before me to demonstrate any communication by the Council to ensure that the LHA was made aware that the parking survey was available, and the OR erroneously states that the parking survey had not been submitted with the application. Despite an assurance in the Council's costs rebuttal that further comments would be sought from the LHA on the parking survey during the appeal, no further comments from the LHA have been submitted in relation to it. These matters demonstrate a significant procedural failing in the handling of the application by the Council. However, the effect of the proposal upon parking amenity is not expressed in the second reason for refusal, nor in the Council's position at the appeal.
10. The applicant claims that if the parking survey had been available to the LHA, it would have been clear that the contentious parking bay is in fact redundant/not in use. However, the survey demonstrates that at each time a photograph was taken of the parking space, the space was available but not occupied. It does not follow that this would overcome the concerns of the LPA and/or the LHA that the presence of the second parking space on the submitted plans would affect a visibility splay.

11. Furthermore, the applicant contends that the LHA have incorrectly identified the site as a 20mph zone, when in fact it is 15mph, and the LPA has failed to pick up this error. As the LHA consultation response clearly shows, it refers to 'a low speed road with typical 20mph speeds' and makes no reference to any speed limit or a 20mph zone. In addition, the applicant claims that the Council has failed to consider section 10.2 of the Healthy Streets for Surrey Design Code 2023. In my appeal decision, I have found that the applicant has not taken account of the full wording of the document, such that it does not permit on street parking within visibility splays in the terms the applicant suggests. I have also found in favour of the Council in terms of the concern about the visibility splay.
12. The applicant's final comments to the appeal state that the Council has failed to acknowledge that the two parking bays have been removed. The applicant submitted a separate planning application on 5 August 2024 to remove the parking spaces, and the Council advised shortly thereafter that (among other things) as no development was proposed, this was not the correct route, such that an instruction was issued to return the application and refund the fee. The Council's statement of case to the appeal is dated 2 October 2024 and makes no reference to the removal of the spaces, nor the separate application made by the applicant. However, there is no substantive evidence before me to demonstrate when and how the Council was informed that the two spaces had been removed and whether this was before the submission date of the Council's statement of case.
13. The evidence demonstrates that the Council's decision to refuse the application was made in June 2024 and the existing and proposed plans clearly showed the presence of the second parking bay outside the site edged red, such that a suitable visibility splay had not been satisfactorily demonstrated. The second reason for refusal clearly refers to a failure to demonstrate that suitable visibility splays would be provided, rather than any harm upon parking amenity. The Council's position was maintained at appeal on the basis that the parking space(s) remained in situ, and it has not been demonstrated that the Council had been made aware they had been removed.
14. For the above reasons, I cannot agree that the second reason for refusal was unwarranted, nor do I find that the Council behaved unreasonably in maintaining its position at appeal, nor that the availability of the parking survey to the LHA would have resulted in a different outcome.
15. In conclusion, while there have been procedural failings by the Council in processing the appealed application, it has not been demonstrated that these matters have caused the applicant unnecessary or wasted expense in the appeal process. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J Moore

INSPECTOR