

Costs Decision

Site visit made on 30 September 2020

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

**Costs application in relation to Appeal Ref: APP/X0360/W/20/3249588
Land adjacent to Ellis Hill Farm, The Coombes, Wokingham, Berkshire.
RG41 4SU**

- 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 Paul Bennett for a full or partial award of costs against the decision of the Wokingham Borough Council.
 - The appeal was made against the Council's decision to refuse planning permission for the erection of a close boarded fence 2m in height and 1No gate.
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Decision

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

Reasons

2. The *Planning Practice Guidance* (the Guidance) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant contends, in summary, that the Council refused to engage in constructive discussions at application stage; has failed to clarify whether its objection is specific or one described as '*in principle*'; has brought forward new evidence at the appeal stage, which did not relate to the reasons given for refusal and making vague, generalised or otherwise inaccurate submissions about the proposal's visual impact, which are unsupported by any objective analysis; and the Council misunderstood generally accepted principles of law or guidance.
4. Although I understand the basis for the appellant's concerns as to the determination of the application, there is no evidence that the appellant engaged or sought to engage in pre-application discussions. In this regard the Guidance advises that, in relation to the behaviour of local planning authorities, that they may be open to award of costs been found against them by

'..refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.'

5. There is no evidence that the Council refused to enter into pre-application discussions in this case. Whether such discussions may have been beneficial so as to avoid the necessity for a future appeal is open to doubt. But at least the appellant would have been made aware of the Council's probable stance in relation both to the information required to accompany an application and the likely outcome, before deciding to proceed with his application. Since the appellant did not seek to engage in pre-application discussions, as recommended in national guidance, I do not consider the Council's behaviour thereafter to constitute unreasonable behaviour.
6. On the '*in principle*' point raised by the appellant, the officer report and/or the reasons for refusal state precisely and clearly why the application was refused permission. Accordingly, the appellant's point, in my view, has little or no merit in the context of a costs application.
7. To my mind, the Council's stance on the visual impact of the proposal was specific, and I agreed with its viewpoint on this aspect for the reasons set out in the substantive decision. Whilst I share the view that the Council referred to several other projects not directly concerned with this appeal, I understood that this material was produced to demonstrate the concerns as to the possible cumulative effects of the type of development both proposed and that had already taken place in the locality. I also note the appellant's references to the Greenways project, which is not directly concerned with this appeal, although I understand the appellant's reason for referring to it. The Council's approach to the appeal, in terms of the material produced to support its stance, is not considered unreasonable behaviour.
8. With regard to its ecological objection, although I acknowledge that this appears to have been given scant mention at application stage, the Council has fully elaborated on its reason for refusal in its statement of case, sufficient to support the basis for its reason for refusal. But even if the ecological information produced by the appellant had satisfied the Council, an appeal could not realistically have been avoided because of the other objections.
9. The appellant, to my mind, has not produced a cogent argument or convincing evidence to support its contention that the Council misunderstood generally accepted principles of law or guidance.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. Accordingly, the application for costs is refused.

G Powys Jones

INSPECTOR