
Costs Decision

Site visit made on 7 November 2016

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 November 2016

Costs application in relation to Appeal Ref: APP/K3605/W/16/3156265 Charters, Cavendish Road, Weybridge, Surrey KT13 0JN

- 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 D Houghton for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for a pair of semi-detached houses, one three storey with basement and integral garage and one two storey with basement and new access from Egerton Road following demolition of existing house.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Paragraph 049 of the PPG sets out that a Council is at risk of an award of costs if it prevents or delays development which should have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations and/or where there is a failure to produce evidence to substantiate each reason for refusal.
 3. In this case, the appellant argues that the Council has not given sufficient weight to the Written Ministerial Statement of 28 November 2014 relating to affordable housing and tariff style contributions or substantiated its position arising therefrom.
 4. However, whilst the Council is clearly cognisant of the Written Ministerial Statement and the resultant amendment to PPG, it has provided a considerable amount of evidence to support its stance that such material considerations do not outweigh the provisions of the development plan. This includes a detailed statement and, during the appeal process, a recent appeal decision. I consider that this evidence is sufficient to demonstrate that the Council has justified the position taken in determining the application.
 5. Furthermore, it is clear from the available evidence that, where it can be demonstrated that the requirement for an affordable housing contribution would render the development unviable, the Council will adopt a flexible approach. The evidence shows that a number of developments between 2011 and 2015 have paid either a reduced contribution or none at all. The appellant
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has not provided any information relating to the appeal scheme's viability and I cannot therefore be certain that the outcome of the application would have been the same in light of such a submission.

6. For the above reasons and having had regard to all other matters raised, I do not find that the Council has acted unreasonably in its determination of the application or that the appellant has suffered unnecessary or wasted expense. Accordingly, the costs application does not succeed.

Hayden Baugh-Jones

Inspector