
Costs Decision

Site visit made on 17 January 2017

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 03 February 2017

Costs application in relation to Appeal Ref: APP/K3605/W/16/3163028 Land to the rear of 17-19 Church Street, Weybridge, Surrey KT13 8DE

- 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 Weybridge Property Investments Ltd for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal planning permission for detached part four/part three/part single storey building comprising 7 flats with associated bins and cycle stores.
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Decision

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

Reasons

2. Paragraph 30 of the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal, and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
 4. The appellant submits that the Council has acted unreasonably by disregarding the advice of its professional officers and failing to substantiate its objection on the grounds of the provision of inadequate living conditions for future occupiers of the development. Whilst the planning officer's report found the proposal to be acceptable in this respect, the Council is not duty bound to follow the advice of its professional officers. However, if a contrary decision is reached, the Council must provide clear evidence to substantiate that reasoning.
 5. The wording of the reason for refusal is clear, and the Council expands on it within its Statement of Case. The relevant development plan policies and the 'Elmbridge Local Plan Design and Character Supplementary Planning Document' (April 2012) set out general approaches in terms of living conditions for future occupants of developments, but they avoid prescriptive guidance on matters such as outlook. Therefore, it is a matter of judgement as to whether outlook from a particular proposed development would be satisfactory. Consequently, whilst I have found in the appellant's favour on this issue in my decision, I consider that the Council has not behaved unreasonably in this regard.
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6. There is no evidence before me to suggest the Council considered that the entire development would be uninhabitable due to its conclusion in respect of the outlook from Flats 1 and 2. However, it would not have been possible or practical for the Council to have given planning permission for the remaining units, whilst withholding permission for Flats 1 and 2. The appellant argues that a condition could have been imposed seeking the amendment of the proposed high level windows in question to full height windows. Such a change, however, would have comprised a significant modification to the scheme which in turn would have raised issues of privacy within the bedrooms. I therefore do not consider that this matter could have been satisfactorily dealt with by condition.

Conclusion

7. I find that unreasonable behaviour by the Council leading to unnecessary and wasted expense, as described by the Planning Practice Guidance, has not been demonstrated. As a result, no award is made.

Elaine Gray

INSPECTOR