
Costs Decision

Site visit made on 03 January 2017

by Rachel Walmsley BSc MSc MRTPI

Decision date: 21 February 2017

**Costs application in relation to Appeal Ref: APP/Z5630/W/16/3159615
Land at 1-9 Evesham Terrace and 26A-26C Cottage Grove, Surbiton.
Formerly site of St Andrew's and St Mark's Primary School, St Andrew's
Road, Surbiton, Kingston upon Thames KT6 4DS**

- 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 Mrs Serena Riemann for a partial award of costs against the Council of the Royal Borough of Kingston-upon-Thames.
 - The appeal was against the refusal of planning permission for the development of land without complying with a condition subject to which a previous planning permission was granted.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. I have considered this application for costs in light of the Planning Practice Guidance (PPG). 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 or wasted expense in the appeal process.
 3. In deciding the application to remove condition 4 of planning permission Ref 23913, the Council is required to assess whether the condition in question is necessary and conclude against the development plan and the National Planning Policy Framework (the Framework), including the six tests. There is no requirement to demonstrate 'exceptional circumstances' in the way the appellant suggests.
 4. The appellant's criticism for the Council's focus on No 9 Evesham Terrace in its delegated report is confused with the view that the Council should have considered amendments to the development proposed at No 9. This aside, whilst I agree with the appellant that the Council's delegated report is at times confusing and focuses on development at No 9, No 9 warrants an acknowledgement to explain the necessity for condition 4. Furthermore, the Council's focus on No 9 does not detract from its clear reasoning that explains why condition 4 is necessary.
 5. In the absence of any evidence to substantiate the claim that the Council's description of the area and plot sizes is inaccurate, I am satisfied that the site
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appraisal demonstrates that the Council had an appropriate understanding of the site and its surroundings. This counteracts differing views on whether a site visit was undertaken. As a result I find that the Council's decision on the application was supported by objective analysis and sound reasoning to justify the Council's decision on the application.

6. In deciding the planning application to remove condition 4 of planning permission Ref 23913, the Council did not impose any conditions. I find no basis, therefore, to consider that the Council imposed a condition that did not accord with the guidance in the Framework on planning conditions and obligations. Furthermore, condition 4 has been found to be necessary and compliant with the Framework and so is another reason not to consider that the Council imposed a condition unreasonably.
7. The appellant suggests that the Council failed to make any reference to paragraph 17 of the Framework which refers to the core planning principles. I cannot see the relevance of this paragraph to the application concerned. The Council's lack of reference to it therefore has no bearing on my assessment of the Council's behaviour.

Conclusion

8. In all I have found that the Council did not behave unreasonably in considering the application or in refusing the proposal for the reasons given. The Council did not, therefore, cause the applicant to incur unnecessary or wasted expense in the appeal process. As a result I conclude that a partial award of costs, towards the expense of the appeal, is not justified.

R Walmsley

Inspector