
Costs Decision

Site visit made on 30 October 2017

by Chris Couper BA (Hons) DipTP MRTPI

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

Decision date: 12th December 2017

Costs application in relation to Appeal Ref: APP/K3605/W/17/3179698 The Wellington, 60 High Street, Walton-on-Thames KT12 1BY

- 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 Steen (Birchwood Commercial Ltd) for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing mansard roof and the erection of 2 additional floors of accommodation and conversion of the existing first floor, into 12 one bed flats.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. It provides examples of types of behaviour that may give rise to a substantive award of costs against a local planning authority. Those include unreasonably preventing development having regard to its accordance with the development plan, national policy and any other material considerations, failure to substantiate reasons for refusal at appeal, and not determining similar cases in a consistent manner.
3. I note that no objection to the scheme was raised by the County Highway Authority, and that it was recommended for approval by officers. I have found in my decision that there would be a limited degree of additional parking stress in the area as a result of the scheme, but that that limited harm and conflict with Elmbridge Development Management Plan 2015 Policy DM7 would be outweighed by the scheme's significant benefits.
4. The Council is not bound to accept the recommendations of its officers or consultees, and although it reached a different conclusion in this case, the degree of parking stress the scheme would cause is a matter of judgement. Additionally, the results of a detailed parking survey were only provided during the appeal process. In its letter of 10 October 2017 the Council adequately substantiated its reason for refusal, having regard to the development plan, the permitted scheme on the site and cumulative impacts. Whilst the appellant states that there are other developments in the borough with no parking provision, I do not have detailed evidence of similar examples.

5. Summing up, whilst I have reached a different conclusion to the Council in my appeal decision, its concerns were not vague or unsubstantiated, and I agree with it that there would be a limited conflict with Policy DM7. Consequently, this is not a case where the Council unreasonably prevented development having regard to the development plan and other material considerations, failed to substantiate its reason for refusal, or, from the evidence before me, determined similar cases in an inconsistent manner.
6. Unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not justified.

Chris Couper

INSPECTOR