



Costs Decision

Hearing Held on 20 February 2018

Site visit made on 20 February 2018

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 28th March 2018

Costs application in relation to Appeal Ref: APP/T5720/W/17/3180585 2 Merton Hall Road, Wimbledon Chase, London, SW19 3PP

- 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 William Cooke for a full award of costs against the Council of the London Borough of Merton.
 - The hearing was in connection with an appeal against the refusal of planning permission for demolition of existing garage & proposed new build dwelling.
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Decision

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

Reasons

2. 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.
3. The appellant submits that the Council has acted unreasonably in placing significant weight on the advice provided by Transport for London (TfL), particularly given that the appeal site is positioned outside of the current safeguarded area for Crossrail 2. Moreover, the appellant submits that the second reason for refusal was capable of being addressed through minor changes to the scheme.
4. TfL were consulted on the proposal at the application stage as the site adjoins the area currently safeguarded for Crossrail 2. TfL advised that the most recent design work they had undertaken indicated that the site may be required for a worksite to deliver Crossrail 2, albeit this revised scheme was not yet in the public domain. Given TfL's remit, and the fact that the revised scheme is likely to be published in 2019, TfL did not act unreasonably in providing this advice to the Council. Moreover, as TfL are the public body with overall responsibility for delivering Crossrail 2, the Council did not act unreasonably in attaching significant weight to TfL's advice. In these circumstances, and whilst I came to a different view, the weight to be attached to TfL's advice is largely a matter of planning judgement.
5. With regards to the second reason for refusal, the Council's Appeal Statement is clear that *"Prior to the receipt of comments from TfL and Network Rail, the council was positively disposed towards the principle of the scheme. As the*

objections emerged, it called into question the principle of the scheme which would have made amendments moot". In this regard, it is not reasonable to expect the Council to negotiate detailed amendments when it objected to the principle of development. Revised plans and new evidence were submitted by the appellant with the appeal documentation, and this work would have been necessary in any event to overcome the Council's concerns. Furthermore, the Council stated at the outset of the hearing that were I minded to accept these revised plans then their objection would be overcome. I do not consider that the Council acted unreasonably in this regard.

6. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Thomas Hatfield

INSPECTOR