
Costs Decision

Site visit made on 28 July 2019

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th August 2019

Costs application in relation to Appeal Ref: APP/K3605/W/19/3226579 61 More Lane, Esher KT10 8AR

- 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 Simon Foster of Moore Place Development 1 Limited for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission to demolish No.61 and No.63 More Lane and replace them with flats of mixed sizes over 3 storeys. The scheme proposes parking and associated landscaping with consideration to the existing access and landscape.
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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.
3. Planning authorities are not bound to accept the recommendations of officers. That the applicant considers the advice of Officers set out in their report to be comprehensive and unequivocal, and that that advice followed extensive discussions and several refinements to the scheme over a long time period, does not prevent the Council from taking a contrary decision.
4. Assessing matters such as the effects of the proposal on the character of the local area and on vehicle parking provision is partly subjective. It is inevitable that opinion will vary. Given the nature and scale of the proposal, the Council had reasonable planning grounds for its decision. While the applicant disagrees with this stance, it was an approach that the Council was entitled to take.
5. The reasons for refusal, which refer to the height, bulk and massing of the proposal and its effect on the character of the local area and on vehicle parking are precise, specific and complete. Relevant development plan policies are referred to as well as the Council's Design and Character Supplementary Planning Document and the National Planning Policy Framework. The Council's Statement of Case letter provides further detail. Taken together, this evidence provides realistic and specific information about the consequences of the proposal that, in the eyes of the Council, would occur if the development were to proceed. It establishes a reasonable basis for the Council's stance.

6. There was considerable local opposition to the scheme. Even so, the Council made its own objective appraisal of the proposal with valid planning reasons stated in the reasons for refusal and substantial evidence provided at the appeal stage. From the submitted information, I am unable to conclude that the Council's decision to withhold planning permission was overly swayed by third party opposition or that its case unduly relied on those concerns.
7. My assessment of the effects of the proposal differs from the Council's approach. I consider this arose because I made different judgements on the evidence before me, rather than because of inadequacies in the content of the Council's case. That I came to a different conclusion and allowed the appeal does not mean that the Council failed to show clearly why in its view the development should not be permitted or that it failed to substantiate its case.

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Conclusion

8. Overall, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

Gary Deane

INSPECTOR