
Costs Decision

Site visit made on 20 August 2019

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2019

Costs application in relation to Appeal Ref: APP/K3605/W/19/3229638 9 Harebell Hill, Cobham KT11 2RS

- 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 Daniel Biasioli for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for a 'detached two storey house with additional rooms in the roof space and attached garage with room above following demolition of existing house & garage'.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, 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 applicant states that, due to the actions of the Council's planning committee's members in overturning the officer recommendation for approval, with unsubstantiated reasons for refusal, they have incurred costs and expense in pursuing an unnecessary appeal. They state that no evidence has been provided to support the grounds for refusal and there were no sound planning policy reasons to underpin the Council's decision.
4. Furthermore, the applicant asserts that the refusal has been based on the personal preference of one local councillor, and that members failed to have regard to all the submitted information and carry out a fair analysis of either policy or the prevailing character of the area.
5. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
6. The Council states that members of the planning committee were provided with a suitably detailed officer report to set the proposals within context. Furthermore, it explains that members of the planning committee were given a presentation by officers, which included photographs of the site and context. It states that committee members attended a site visit prior to the Council reaching its decision.

7. I consider that it is not unusual for local councillors to speak on a proposal for development within their area at planning committee. Furthermore, in that process, the councillor may seek to obtain support from members of the committee for their views.
8. Moreover, whilst I have concluded differently to the Council in my Appeal Decision, I consider that the main issues are a matter of planning judgement. The Council's decision notice clearly sets out the reasons for refusal and frames them within the context of a relevant development plan policy. The Council's appeal statement satisfactorily sets out that the appeal site and the proposal are not the same as other sites and developments where similar proposals have been allowed. In planning decision making each case must be assessed on its own merits. I am satisfied that the Council made its own planning judgement and substantiated the grounds for refusal based on development plan policy.
9. In conclusion, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

James Taylor

INSPECTOR