



Costs Decision

Site visit made on 2 July 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2019

Costs application in relation to Appeal Ref: APP/L5810/W/19/3226665 72 High Street, Whitton TW2 7LR

- 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 P A Steer Settlement Trust for a full award of costs against the Council of the London Borough of Richmond-upon-Thames.
 - The appeal was against the refusal of planning permission for 'change of use from vacant bank (Class A2) to a hot food takeaway (Class A5); installation of extraction/ventilation equipment and other external alterations'.
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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. The appellant states that the appeal was unnecessary as the LPA have acted unreasonably by presenting a single reason for refusal based on highway safety due to a lack of off-street parking in the absence of a parking survey and associated impact upon character and appearance. They also indicate that the Council have failed to substantiate the reason for refusal or produced evidence to support their assertions.
4. The Council's refusal notice states which policies of the adopted London Borough of Richmond upon Thames Local Plan (LP)¹ that they find that the proposals are in conflict with, and these are relevant to the appeal proposals. Even in the absence of any reference to highways officer comments within the report as noted by the appellant, the planning application as submitted was not supported by a parking survey to demonstrate adequate parking provision. I find that in the absence of such the Council were not provided with objective evidence to conclude on this issue and were reasonable in refusing the application on this basis. I find this is adequately supported by the analysis within the officer report of the information available to them at the time of determination.
5. The appellant has also raised concern with regard to a lack of cooperation from the Council during the course of the planning application. These include failure

¹ Adopted July 2018

to allow further time to submit additional parking surveys and proceeding to determination. Whilst I note the appellants concerns, I consider that the decision was appropriately reached on the basis of the planning merits of the proposal as submitted, that lacked objective analysis of parking provision. Whilst I have allowed the appeal that was supported by a parking assessment, I do not find that the Council were unreasonable in terms of when and how it reached its decision to refuse planning permission. Furthermore, I do not find the provision of a parking survey and associated analysis in support of this appeal to represent an unreasonable cost, particularly noting the appellants assertion that this would have been prepared in support of the planning application in any event.

6. Whilst I do not concur with the Council's argument with regard to visual amenity impacts of delivery vehicles parking outside of the premises, I believe that the Council were not unreasonable in reaching this view or maintenance of this stance, given that assessment of such is a matter of subjective judgement.
7. The appellant has indicated that the Council have been inconsistent in approving other similar proposals within the vicinity of the site. Whilst some detail of this application has been provided, it was not possible to fully assess the merits, including the exact nature and parking requirements of this case. As such, I consider that the Council has not been inconsistent in their decision making and consider that they have not acted unreasonably in this regard.

Conclusion

8. For the reasons outlined above, I therefore conclude that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated. Consequently, an award of costs is not justified.

Robert Lankshear

INSPECTOR