
Costs Decision

Site visit made on 16 October 2019

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Costs application in relation to Appeal Ref: APP/K3605/W/19/3233478 Land to Rear of 23 Claremont Road, Claygate, Esher KT10 0PL

- 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 Mrs E. Smalley for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for a new detached dwelling and associated car parking on currently vacant land.
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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 application for costs relies on substantive matters relating to the planning merits of the appeal. The appellant cites that the committee, in refusing permission, ignored the advice of their officers, that the Council prevented development that should have been permitted and that evidence has not been produced to substantiate the reason for refusal.
4. The committee considered that despite the recommendation from officers, the scheme would result in harm to the character and appearance of the area. This is inherently a subjective matter and a matter of planning judgement. Members of the committee would have local knowledge of the area and notwithstanding the content of the officer's recommendation, concluded that the proposed scheme would not have an acceptable effect. This view is clearly articulated in the reason for refusal as well as the Council's statement of case.
5. Whilst the recommendation from officers was to approve the planning application, the Members were not bound to accept that recommendation, so long as reasonable grounds for doing so could be substantiated. Whilst I have not agreed with the harm as alleged, I consider that the reason for refusal and the Council's statement of case adequately identified the harm that, in the opinion of the committee, would result from the proposal.
6. I note that the applicant had engaged in pre-application discussions with Officers and whilst Officers looked favourably on the scheme, Members were entitled to take a different view.

7. There is reference to the Council's statement of case setting out detail relating to the matter of affordable housing, despite not being a reason for refusal. This however sets out the rationale for seeking a contribution and, as such, informs the consideration of the need for a contribution in this respect and does not seek to add this as a reason to resist the scheme.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Martin Allen

INSPECTOR