



Costs Decision

Site visit made on 2 January 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Costs application in relation to Appeal Ref: APP/L5810/W/19/3237851 63 Sandycombe Road, Richmond TW9 2EP

- 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 Taylor (Smith Bros) 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 the demolition of the existing buildings and the erection of a mixed use residential and commercial development (8 residential units and 248.6m² of B1 space).
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 applicant submits that the Council has acted unreasonably because the proposed development was subject to positive pre-application discussions, that it was refused planning permission against the recommendation of Council Planning Officers, that the roof terrace was taken to be a floor in error and that adequate clarification of this matter was not provided to Planning Committee members, and that the plans are clear in showing that no overlooking would occur from the development.
4. In response, the Council has stated that the reason for refusal is not limited to the height of the proposed building but that it was a result of the impact arising from its combined siting, mass, height and design, that the Planning Committee comprises a collective of experienced Councillors who have knowledge of material planning considerations and that the planning application was not refused on the grounds of overlooking.
5. Whilst I accept that it will have been frustrating to the applicant that the Council Members took a different view to that which was recommended by their Officers and which formed the basis of their pre-application discussions, they were entitled to take this course of action and it does not represent unreasonable behaviour. Furthermore, in both reaching its decision and in defending the appeal, I consider that the Council has adequately set out and explained the areas of concern which led to its refusal of planning permission.

6. In particular, the plans are clear that the proposed northern block consists of two floors of accommodation with an enclosed roof terrace above. An assessment of the impact that the building would have is a judgement for the decision maker. In this respect, the Council has clearly outlined that their concerns relate to a combination of factors and, although I have taken a different view and found that no harm would arise, this does not mean that the Council has acted unreasonably.
7. Whilst the Committee Minutes suggest that potential overlooking was discussed at the meeting, this was not carried forward into the reasons for refusal. The Council has not therefore acted unreasonably in this regard.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and the application for costs fails.

Graham Wraight

INSPECTOR