
Costs Decision

Site visit made on 28 January 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2020

Costs application in relation to Appeal Ref: APP/K3605/W/19/3240490 36 Stoke Road, Cobham KT11 3BD

- 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 Queenshill for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for development described as the 'demolition of the existing building and erection of a pair of detached dwellings comprising no. 10 residential units with associated external amenity space, parking and refuse storage'.
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Decision

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

Reasons

2. The Planning Practice Guidance sets out that the parties normally meet their own expenses. However, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The appellant states that substantive unreasonable behaviour has occurred due to the Council failing to properly apply local and national policy. In so doing they have prevented development which should clearly have been permitted.
4. As set out within my Appeal Decision Policy DM7 of the Elmbridge Local Plan Development Management Plan April 2015 (DMP) sets maximum parking standards, and the proposal is some way below this upper limit. Paragraph 108 of the National Planning Policy Framework does not set parking standards but requires a development to provide appropriate opportunities to promote sustainable transport modes.
5. Therefore, I find that it is a matter of planning judgement as to the appropriate level of car parking required by the development. It is necessary to balance the strategic objectives, in relation to reducing car ownership, with making sufficient provision to meet the needs of the development. Whilst I have concluded differently to the Council in my Appeal Decision, I have exercised my own planning judgement in reaching my conclusion.
6. I note that the decision of the Council was made by members of the planning committee contrary to the advice of its highway and planning officers. However, the members are not bound by their officers' professional advice.

Furthermore, I note that public objection raised the adequacy of the car parking provision. Therefore, I find it reasonable for members to scrutinise the matter. Moreover, I find that the reason for refusal as set out on the Council's formal Decision Notice is clear and references relevant development plan policy.

7. I have noted the appellant's evidence, including references to the 2011 census data within their Transport Statement. Additionally, I have noted the Council's evidence, including highlighting the limited availability of the bus services, particularly at evenings and weekends, and the distance to the services in Cobham. Furthermore, I note the photographic anecdotal evidence submitted by third parties which highlights that the reason for refusal was founded on genuine local concern. I find that these submissions from all parties provide context and that the Council have analysed this and satisfactorily substantiated the reason for refusal.
8. Furthermore, the appellant suggests that this matter could have been avoided through the imposition of a planning condition to require a specific number of parking spaces. However, it is clear that the Council feel that the ten spaces proposed would be inadequate. Furthermore, I can see no reasonable means of requiring additional spaces without comprehensively redesigning the development. This could not have reasonably been dealt with by condition.
9. Finally, I note the appellant's reference to another Appeal Decision¹ as a reason for the Council not to have used this reason for refusal. However, I have not been provided with full details of that Decision, but I see that the proposal was not identical to the appeal before me here as it related to 17 flats on a different street. Moreover, each case should be considered on its own planning merits.
10. 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

¹ APP/K3605/W/19/3226579