



Costs Decision

Site visit made on 4 February 2020

by Mr D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 22 April 2020

Costs application in relation to Appeal Ref: APP/K3605/W/19/3240173 Wessex, South Road, Weybridge KT13 9DZ

- 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 Simon Bishop (South Road Property Developments Limited) for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of technical details consent for the demolition of the existing building and erection of 9 flats and associated works.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant submits that the Council has acted unreasonably as it has failed to rely on reasons for refusal that stand up to scrutiny and has therefore not exercised its development management functions in a reasonable way. The actions of the Council are said to have caused the applicant to incur unnecessary or wasted expense in having to make and support an appeal.
4. In relation to the first reason for refusal, the applicant's main submission is that the proposed development complied with housing standards, which was obvious as a matter of fact. The Council argue that they were unable to confirm that the proposed development complied with housing standards as they required confirmation of how some of the rooms were to be used. The Council withdrew this reason for refusal following consideration of the appeal documents, which they say gave them the necessary confirmation.
5. I accept that, based on the plans, how some of the rooms were to be used required confirmation from the applicant as otherwise the Council would have been relying on assumptions. As such, this matter was not obvious and the applicant would have needed to provide the confirmation at some point. Ideally this would have been settled during the course of the planning application, however the Council acted reasonably in withdrawing their reason for refusal during the appeal rather than proceeding to defend it unnecessarily. As such, I find that no unnecessary or wasted expense has been incurred in contesting the first reason for refusal.

6. In relation to the second reason for refusal, the applicant submits that the Council has gone against the advice of its professional officers without good reason and failed to substantiate its objections relating to the impact on local highway conditions.
7. The Council substantiated their reasons for refusal in their statement of case submitted with the appeal. The statement of case contradicts the contents of the report that was submitted to the Planning Committee where the Officer's recommendation was not followed. Notwithstanding this, the fact that the statement explains a Committee decision where a different view was taken from Officers does not of itself lead to a conclusion that the Council was behaving unreasonably.
8. In this case, notwithstanding the lack of objection from the County Highway Authority, the Council were entitled to make their own judgements on highways impacts. It is also noted that some of the concerns raised by the Council echo representations from third parties about their experiences of living nearby. As such, the appellant would have needed to engage with these issues regardless and cannot therefore be regarded as having incurred unnecessary or wasted expense as a result.
9. The Council point out that at the time of their decision they did not have sight of the tracking diagram submitted in the appellant's Highways and Transportation Assessment dated October 2019, which shows how vehicle turning on South Road would take place. This was an important piece of evidence that was considered as part of this appeal and led to a conclusion that the proposed development would be acceptable. In the absence of this evidence I find that the Council did not act unreasonably in refusing the application.
10. Accordingly, I find that the Council neither unreasonably refused the application, nor failed to substantiate their reasons for refusal. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

D.R. McCreery

INSPECTOR