

Costs Decision

Site visit made on 24 September 2020

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2020

Costs application in relation to Appeal Ref: APP/Q3630/W/20/3250200 Land rear of 2 Clarence Street, Egham, Surrey, TW20 9RW

- 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 Ms S Marshall for a full award of costs against the decision of the Runnymede Borough Council.
 - The appeal was made against the Council's decision to refuse planning permission for the demolition of garage/storage building (Class B8) and erection of single storey detached dwelling with associated amenity space provision, landscaping and front boundary fence with pedestrian gate.
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Decision

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

Reasons

2. The *Planning Practice Guidance* (the Guidance) 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. Much of the appellant's costs application appears to be a repetition of her grounds of appeal. Nevertheless, in summary, it is alleged that the Council prevented or delayed development which should have clearly been permitted having regard to national and local policy; it '*refused to accept*' the lawful use of the site and failed to properly appreciate the benefits arising from the removal of the extant use; it overstated the objection in relation to the alleged paucity of external amenity space and used generalized and vague reasons to oppose the scheme.
 4. The appellant also claims that the Council acted contrary to, or did not follow, well-established case law. However, the basis for this part of the claim relates to previous prior approval decisions taken by the Council, which are not matters before me and are not subject of the current appeal.
 5. I consider the main difference between the parties is the extent to which the lawful use of the site should have influenced the Council's decision. I do not share the appellant's view that the Council '*refused to accept*' the lawful use of the site, since the existence of the Certificate of Lawfulness is acknowledged in the officer report.
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6. I nevertheless acknowledge that the Council gave very little weight to the existence of the Certificate and its potential environmental implications as a material consideration, far less than the appellant, and indeed myself. However, as explained in the Planning Practice Guidance, the Courts have held that:

'provided regard is had to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case'.

7. Thus it was a matter for the Council to decide what weight should be attached to the existence and implications of the Certificate when determining the application. Otherwise, the Council's arguments in relation to the scheme itself were based on valid planning considerations related to development plan policies. The objections were clearly stated and argued, and although I disagreed with the Council on the merits of the case, this may be attributed to personal judgment and my decision was finely balance.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. Accordingly, the application for costs is refused.

G Powys Jones

INSPECTOR