
Costs Decision

Site visit made on 7 April 2021

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2021

Costs application in relation to Appeal Ref: APP/K3605/W/20/3255249 35 New Road, Esher, KT10 9NU

- 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 Caroline Tighe for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for detached two-storey building with rooms in the roof space and underground parking comprising of 6 flats, detached two-storey house with rooms in the roof space, both with associated parking and amenity space, 900m high entrance gates and bin storage following demolition of existing house.
-

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 appellant submits that the Council has acted unreasonably in that it has gone against the advice of its professional officers and refused the application for reasons already dealt with in a previous application.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. In this case, I have noted the recommendation of the Council's Officers. However, this is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
6. It will be seen from my decision that I agree with Council Members and that there were sufficient grounds for refusing planning permission for reasons relating to the effect on the character and appearance of the area and on the living conditions of the occupiers of 37 New Road. It follows that I am satisfied that the Council has shown that it was able to substantiate its reasons for refusal.

7. Other concerns raised by the appellant concerning the functioning and decision-making of the East Area Sub-Committee are beyond the remit of this cost application.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

J Davis

INSPECTOR