
Costs Decision

Site visit made on 27 October 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2021

Costs application in relation to Appeal Ref: APP/K3605/W/20/3253785 6 Thrupps Lane, Hersham, Walton-on-Thames, KT12 4NF

- 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 Elmbridge Borough Council for a full award of costs against CJFox Developments.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for demolition of an existing five bedroom, two-storey, detached dwellinghouse and the construction of five three storey, three bedroom terraced houses.
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Procedural Matter

1. Following email correspondence in December 2020, the counter claim for costs made by CJFox Developments against Elmbridge Borough Council has been treated as withdrawn.

Decision

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

Reasons

3. The Council's case is that the respondent unreasonably sought to change the proposal to omit the provision of affordable housing after the planning application was submitted. However, it is a common and widely accepted practice for applicants to seek to make changes to development proposals, with the acceptability of such changes being at the discretion of the decision maker. This is reflected in advice set out in both Planning Practice Guidance¹, and procedural guidance published by the Planning Inspectorate².
4. Whilst on this occasion the change was rejected both by the Council and the Planning Inspectorate at the appeal stage, the respondent did not act unreasonably in requesting it, particularly in light of the viability review it had undertaken. As such, there was no unreasonable behaviour on this occasion. The Council was not put to unnecessary or wasted expense in defending the appeal. Neither a partial nor full award of costs is justified.

Neil Holdsworth

INSPECTOR

¹ Paragraph: 061 Reference ID: 14-061-20140306

² The Planning Inspectorate: Procedural Guide, Planning Appeals, England.