
Costs Decision

Site visit made on 7 May 2021

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 21 June 2021

Costs Application in relation to Appeal Ref: APP/T5720/W/20/3265532 Land at 227 Western Road, Colliers Wood, London SW19 2QD

- 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 Mesari Ventures Ltd for a full award of costs against Merton London Borough Council.
 - The appeal was made against the refusal of planning permission for: *"The demolition of the existing building, all site preparation works and redevelopment of the site for 9 new homes (C3), together with associated landscaping, access and cycle parking"*.
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Formal Decision

1. I refuse the application for an award of costs against Merton London Borough Council.

Submissions on behalf of Mesari Ventures Ltd

2. The appellant asserts that the Council failed to determine the planning application in a timely way and failed to deal with e-mail correspondence. It is argued that the appeal was unnecessary and an application is made for a full award of the costs of the appeal.

Submissions by Merton London Borough Council

3. The Council assert that they have engaged with the appellant in dealing with the application, enabling desirable changes to be made to the scheme during the application process. The Council deny that they have demonstrated unreasonable behaviour that has caused unnecessary costs or expense to the appellant.

Reasons

4. The 'Planning Practice Guidance' 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, bearing in mind the principle that the parties to a planning appeal normally meet their own expenses.
5. I accept that the Council's responses to points raised by the applicant during the application process were inadequate in some respects, particularly in the later stages of the process, but I am aware that the application for costs relates to unnecessary or wasted expense in the appeal proceeding, as distinct

from the application process. Thus, the way in which the Council dealt with the planning application does not affect my conclusions on the application for the costs of the subsequent appeal.

6. In relation to the appeal itself, the Council have presented a detailed and closely argued case in defending their objections. Indeed, the key issues in the case (relating to design and highway issues) were balanced, although other elements of the Council's arguments were clearly weaker.
7. In reaching my Decision on the application for costs, therefore, I have had regard to the guidance contained in the 'Planning Practice Guidance' (including the guidance given in respect of the local planning authority's handling of the planning application). Evidently, the Council's arguments have not been persuasive and I have allowed the appeal, in consequence. Even though I have not supported the Council's objections to the project, however, I do not consider that their arguments or their conduct in the appeal have been such as to amount to unreasonable behaviour as envisaged in the guidance.
8. Notwithstanding the Council's behaviour, therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the 'Planning Practice Guidance', has not been demonstrated. Hence, I have refused the application for costs against Merton London Borough Council.

RC Shrimplin

INSPECTOR