
Costs Decision

Site visit made on 1 December 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 DECEMBER 2021

Costs application in relation to Appeal Ref: APP/K3605/W/21/3275866 Grevillea, 125 Silverdale Avenue, Walton-On-Thames KT12 1EH

- 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 Mr & Mrs Hoskins for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for a detached two-storey house with rooms in the roof space, rear balcony, and integral garage.
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Decision

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

Reasons

2. An award of costs may be allowed where it is found that a party behaves unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant's case is that the Council has failed to produce evidence to substantiate each reason for refusal and it has delayed development which should clearly have been permitted.
4. The Council's statement and officer report provide suitably specific and detailed evidence as to why it considers the proposed house would be harmful to character and appearance. Furthermore, it includes detail as to the need for the housing mix and density sought, discussion as to how the proposed density is contrary to development plan policy and a clear explanation that it considers that the proposal is for a development type for which there is no identified housing need. Additionally, sufficient justification is provided regarding why the Council considers an affordable housing contribution is required.
5. It is also evident that decision takers were aware that paragraph 11 d) of the Framework was engaged and a balance was undertaken. Although the officer report did not replicate the wording of the National Planning Policy Framework (July 2021), the appeal statement clarifies that the correct test was applied. On the basis of the evidence before me, I am satisfied that this was the case.
6. Accordingly, the Council has produced evidence to substantiate each reason for refusal. The main decision sets out that I find the development to be contrary to the development plan, albeit that following a planning balance I come to a different conclusion to the Council. Therefore, I am not of the view that this development should clearly have been permitted. Consequently, unreasonable behaviour in these regards has not been demonstrated.

7. Although there has been disagreement about the affordable housing contribution, a Unilateral Undertaking signed by the appellant has been provided. Furthermore, the figure is reasonable. It is also put to me that the Council would not accept revised drawings. It is at the discretion of the Council whether to accept such changes. A determining factor of this application related to the density and mix of housing, and the appellant's evidence is clear that an alternative to a large single family dwelling would not be implemented. As such, this behaviour is not unreasonable in this case.
8. Consequently, for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated.
9. For this reason, neither a full nor partial award of costs is justified.

H Miles

INSPECTOR