

Costs Decision

Site visit made on 29 October 2021

By Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23rd December 2021

Costs application in relation to Appeal Ref: APP/P3610/W/20/3264154 22-24 Dorking Road, Epsom, Surrey KT18 7LX

- 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 S Chowdhary for a full award of costs against Epsom & Ewell Borough Council.
 - The appeal was against the refusal of planning permission for demolition of the existing houses and erection of a part two, part three storey building with rooms in the roof and basement providing 20 flats. Basement parking for cars and cycles. Bin stores and associated hard and soft landscaping including new boundary walls and railings
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Decision

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

Reasons

2. The Government's 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.
3. The applicant considers that the Council was unreasonable in adding a third reason for refusal in July 2020 relating to the effect of the development on the setting of heritage assets. However, the application included a 36 page comprehensive heritage statement and the applicant was clearly well aware that this was a matter that had to be dealt with in the determination of the application.
4. Members disagreed with the officer's report with its favourable conclusions on the issues of character & appearance and parking. It is reasonable to assume that officers would on balance have expected to accept their recommendation and grant permission. It appears that Members were less concerned as to the development's effect on the heritage assets on the opposite side of Dorking Road.
5. However, any adverse effect in this regard only occurs as a consequence of the development having a harmful impact on the character and appearance of the site's surroundings. Given to some extent unexpected refusal and the fact that this was a virtual meeting because of Covid-19, I do not consider it unreasonable that the officers failed at that time to appreciate that the Members' decision required the additional refusal reason. When the omission was realised it was addressed at the earliest opportunity, this being the Committee meeting of 13 January 2021, a date that preceded the validation of the appeal. As it is axiomatic for harm to the heritage assets' setting to arise from a judgement of harm to the

character and appearance of the area, I am not convinced as to the necessity of further detailed heritage evidence from that already supplied.

6. Turning to the main complaint, my Decision makes it clear that I fully support the Members' decision on both the main issues. And the Optimising Housing Delivery document of 2018 notwithstanding, I consider that officers' judgement on the appropriateness of this proposal on this site and the overall planning balance was not one that on the evidence before me in this appeal that I could share.

7. Clearly it is unfortunate for the appellant that he was asked to increase the housing on the site only for it then to be refused. However, if properly advised he would have been made aware of the fact that it is Members not officers who make the final decisions on applications of this importance and that there are occasions when the officers' advice is not followed.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

9. The application is therefore refused.

Martin Andrews

INSPECTOR