



Costs Decisions

Site visit made on 7th July 2022

by Megan Thomas Q.C. Barrister-at-Law

an Inspector appointed by the Secretary of State

Decision date: 22 July 2022

Costs Decisions in relation to Appeal Refs: APP/L5810/D/21/3287848, APP/L5810/D/21/3287847 & APP/L5810/D/22/3296751

29 Ham Farm Road, Ham TW10 5NA

- The applications are 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 applications are made by Mrs Jessica Inwood for full and partial awards of costs against the London Borough of Richmond Upon Thames.
 - The appeals relate to the refusal of planning permissions for proposed extensions and alterations to a dwellinghouse.
-

Decisions – All Applications

1. The applications for awards of costs are refused.

Reasons – All Applications

2. 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.
3. Amongst other things, the appellant is seeking a full award of the costs of the three appeals on the basis that if the Council had undertaken a site visit it would not have refused the three applications and there would have been no need for the appellants to pursue appeals. It is implied that if the Council had undertaken a visit it would have been obvious that planning permissions should be granted.
4. I do not consider that the Council has acted unreasonably in not visiting the site in relation to these appeals, nor do I consider that if they had done so they would have granted planning permission in one or more of the planning applications. The reasoning in relation to the refusal of the planning applications by the Council is sufficiently substantive and relevant to the cited adopted Development Plan policies including heritage policies. Whilst I have allowed the appeals, the planning judgments made by the Council are within the spectrum of rational planning judgments on which professional planners may reasonably disagree. Furthermore, I consider that in this case sufficient information including visual information was either supplied to the Council or was available electronically for a reasonable judgment to be made about the impacts of the proposals.

5. The Appellant asserts that it could have avoided the expense of commissioning a Heritage Statement from PowerHaus Consultancy. I do not consider the cost of the Heritage Statement is a wasted expense of the appeals or one incurred unnecessarily. The reasons for refusal included allegations of harm to the Parkleys Estate Conservation Area in which the appeal site sits. A conservation area is a designated heritage asset which gives rise to the application of NPPF policy and local policy and involves the application of a statutory duty found in the Planning (Listed Buildings and Conservation Areas) Act 1990. The allegations of harm by the Council were not unfounded or unsupported and a site visit by the Council would not necessarily have led to the need not to commission a Heritage Statement.
6. The appellant also alleges that if the Council had properly examined the application documentation in relation to the Appeal C (application ref: 22/0312/HOT) then it would not have refused that application on the basis of reason for refusal no.2. A partial award of costs is sought in relation to wasted costs of replying to this reason in the appeal Statement of Case. Reason for refusal no.2 alleges that there was a lack of sufficient ecological and arboricultural information to demonstrate that the proposal would not have detrimental impacts on ecology or trees. However, I do not consider that the Council has acted unreasonably in taking this view given the information supplied to it specifically with application ref. 22/0312/HOT. Whilst I acknowledge that the Design, Heritage and Access Statement (2022) contained some tree information and that the appellant sought to rely on the fact that planning application ref.21/1406/HOT had been granted and development commenced and that it also contained tree and ecological information, I conclude that it was not unreasonable for the Council to refuse on ground no.2 for insufficient information submitted with planning application ref. 22/0312/HOT.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. No awards of costs are warranted in these appeals.

Megan Thomas Q.C.

INSPECTOR