
Costs Decision

Site visit made on 5 July 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2022

**Costs application in relation to Appeal Ref: APP/K3605/W/21/3286858
Land to the north west of Campbell Cottage & 1 Beacon Mews, South Road,
Weybridge KT13 9DZ**

- 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 Ms G Hewitt for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a two storey detached building to provide offices for the visually impaired – Class (E(g)(i).
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary and wasted expense in the appeal process. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the merits of the appeal.
3. The applicant's claim for an award of costs is primarily grounded in substantive matters. Namely they consider that the Council, through a failure to consider potential planning conditions or give the applicant time to submit a planning obligation, prevented or delayed development which should clearly have been permitted.
4. The PPG is clear that costs cannot be claimed for the period during the determination of the planning application although behaviour and actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded.
5. The Council substantiated its position on the proposed development, which was supported by a development plan policy, and its concerns were clearly communicated to the applicant. The Council also advised why a condition restricting the end users of the proposal would fail to overcome their concerns and informed the applicant that a planning obligation would therefore be necessary to address any unacceptable impacts. As can be seen

from the appeal decision, the onus is on the applicant to submit any necessary obligation for the Council to consider.

6. The PPG also advises that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency.
7. An obligation was not submitted during the course of the planning application therefore the Council determined that the proposal failed to accord with the development plan and thus refused the planning application. As such, the appeal process was unavoidable.
8. I therefore find that the Council did not behave unreasonably and thus unnecessary or wasted expense has not been demonstrated. A claim for costs is not therefore justified and accordingly it is refused.

H Ellison

INSPECTOR