



Costs Decision

Site visit made on 23 August 2022

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st September 2022

Costs application in relation to Appeal Ref: APP/L5810/W/21/3286010 Rear of 63-65 Raleigh Road, Richmond, TW9 2DU

- 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 the Council of the London Borough of Richmond-upon-Thames for an award of costs against Colin Ferns Limited.
 - The appeal was against the refusal of planning permission for a proposal described as *"proposed change of use of vacant substation at the rear of the premises to staff facilities together with the retention of a permitted single storey side and rear extension (Ref; 20/0424/FUL) dated 8 April 2020"*.
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Decision

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

Reasons

2. Planning Practice Guidance ('PPG') 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 Council submits that the appellant has failed to address the substance of its case in support of the reasons for refusal, including the findings of previous appeal decisions at the site. It considers that the appellant has acted unreasonably in this regard.
4. The Council's first reason for refusal related to the effect of the development on highway safety. The site has been subject to 3 previous dismissed appeals which found that proposed intensifications of the use of the existing access point would prejudice highway safety. PPG advises¹ that an appellant is at risk of an award of costs being made against them if a recent appeal decision for a substantially similar development has been dismissed, and circumstances have not materially changed in the intervening period. However, the current appeal proposal is not substantially similar to the previous schemes as it consists mainly of welfare and office facilities, alongside a relatively small storage area. The appellant's case highlighted these differences, and it did not act unreasonably in this regard.
5. Separately, the appellant asserted that a condition could be imposed to ensure that the strip of land connecting to Sandycombe Road would be used as an emergency access route only. Whilst I came to a different view on the

¹ Paragraph: 053 Reference ID: 16-053-20140306

enforceability of such a condition, this is a matter of planning judgement, and the appellant did not take an unreasonable position in this regard.

6. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Thomas Hatfield

INSPECTOR