



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 Colin Ferns Limited for a full award of costs against the Council of the London Borough of Richmond-upon-Thames.
 - 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 appellant submits that the Council has failed to substantiate its reasons for refusal and has based these on grounds that are capable of being dealt with by condition. Accordingly, it is submitted that the Council has acted unreasonably and prevented development which should clearly have been permitted.
4. The Council's first reason for refusal related to the effect of the development on highway safety. In this regard, 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. The Council supported its position by highlighting the sections of the previous appeal decisions that were considered to be relevant to the current proposal. It also set out why it considered that the proposal would lead to additional use of the access route onto Raleigh Road. Whilst I came to a different view, the Council did not act unreasonably in relation to this matter.
5. The second reason for refusal related to the effect of the development on the living conditions of adjoining occupiers. In this regard, the Council highlighted a number of amenity concerns in relation to the proposed pedestrian access route onto Sandycombe Road and set out why it considered that this matter could not be addressed by condition. The Council clearly substantiated its position and did not act unreasonably in this regard.

6. There is no record of an objection to the proposal from either the Highway Authority or the Council's Environmental Health section. However, the Local Planning Authority is not bound by advice it receives from consultees. Moreover, there is a full and detailed case before me in support of the first and second reasons for refusal.
7. It is also asserted that unnecessary delays occurred at application stage that resulted in the appellant having to address requirements in the newly adopted London Plan. However, the full details of the circumstances that led to this delay are not before me, and I further note that the appellant agreed to an extension of time. In any case, PPG¹ is clear that costs cannot be claimed for the period during the determination of the planning application. Moreover, the Council withdrew its third reason for refusal (relating to fire safety) promptly in response to the appellant's suggestion that this be dealt with by condition.
8. 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

¹ Paragraph: 033 Reference ID: 16-033-20140306