

Costs Decision

Site visit made on 14 December 2022

by A. Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 JANUARY 2023

Costs application in relation to Appeal Ref: APP/Z3635/W/22/3296881 Kantara, Pharaohs Island, Shepperton TW17

- 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 Mrs J O'Leary for a full award of costs against Spelthorne Borough Council.
 - The appeal was against a refusal to grant planning permission under section 78 of the Town and Country Planning Act 1990 for the erection of replacement dwelling following demolition of existing dwelling and outbuildings.
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Decision

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

Reasons

2. Planning Practice Guidance (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 expense in the appeal process.
3. The PPG states that examples of unreasonable behaviour include failure to substantiate reasons for refusal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and acting contrary to national or local policy.
4. The applicant submits that the Council has acted unreasonably in that it failed to take into account the appellant's fallback position, that it found the development not to be in keeping with the area despite buildings of a similar nature existing and that the Council made its decision without the consultation response of the Environment Agency (EA). This is alleged to have resulted in wasted time and cost.
5. In this case I have noted the Council's reasons for refusal. These are specific and relevant to the application. They also clearly state the policies of the development plan which the proposal is considered to conflict with. These reasons, in my view, when taken together with the officer report, have been adequately substantiated.
6. I accept that the EA had not made their representations known prior to the Council making its decision, and that comments were received shortly afterwards. I also accept that the appellant went to reasonable lengths, post-decision, to liaise with the EA on matters of concern, with some of those concerns later withdrawn by the EA. Whilst the Council could have requested a

time extension until the EA response had been received, in the knowledge that a response was to be made, I have no reason to conclude that the Council would have come to any other decision on that main issue if that response had been received. Even were that issue to have been found acceptable, that would not have outweighed the other harm identified.

7. In respect of character and appearance and the appellant's fallback position, the appellant and Council clearly disagree with one another's findings. As explained above, these reasons, in my view, have been adequately substantiated by the Council. Accordingly, the application for costs essentially relates to disagreements about legitimate matters of planning judgement.
8. It is evident from the main decision that I have agreed with a number of the Council's reasons for refusal. I am satisfied that the Council's determination of the application and reasoning were credible and that it was entitled to reach the decision it did.
9. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Conclusion

10. I conclude that the application for an award of costs should be refused.

A. Price

INSPECTOR