



Costs Decision

Site visit made on 9 January 2023

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date 23/01/2023

Costs application in relation to APP/P3610/W/22/3297355

6 The Grove, Epsom KT17 4DQ

- The application is made under the Town and Country Planning Act 1990 (the Act), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Oakton Developments Limited for a full award of costs against Epsom and Ewell Borough Council.
 - The appeal was a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
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Decision

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

Background

2. The applicant applied for planning permission under reference 18/00647/FUL for a two storey rear extension, 1st floor side extension, and conversion of existing dwelling to provide 4 No. 2 bed flats and 1 No. 1 bed flat, including parking and landscaping.
3. Planning permission was granted for the proposed development subject to conditions. Subsequently, the applicant submitted details pursuant to condition Nos. 6, 7, 8, 10, 12, 13, 14 and 15, however, the Council refused the application, and this forms the basis of the latest appeal.

Reasons

4. The Planning Practice Guidance (the 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. Unreasonable behaviour can be considered as either substantive or procedural in nature.
5. The applicant has identified the grounds for their costs application as being the lack of a timely decision, a failure to proactively engage during the consideration of the application and the incorporation of a vague and generalised reason for refusal. This costs application relates to the costs incurred due to the appeal process.
6. The application was validated on the 12 October 2021. I note that the Council engaged with the applicant on the 17 November 2021 and the 17 December 2021. The applicant responded shortly after each request from the Council.

7. The Council have confirmed that additional information was requested during the application and the applicant's email trail shows that this was received by the Council on the 22 November 2021. I have considered the points raised by both parties regarding this application and I acknowledge the Council took more than 8 weeks, from initial validation, to reach its decision.
8. However, it is clear from the evidence that some of these delays related to inconsistencies within the applicant's submissions which required correction and reconsideration by the Council. On this basis I am satisfied that the Council issued a timely decision following resubmission of updated information.
9. While consultees did not object, the Council is entitled to come to its own decision. Furthermore, the burden to provide accurate information lies with the applicant. The inconsistencies between the proposed Landscaping Plan TG27 Rev A and the approved Site Plan 18/022/01 Rev C would introduce an element of uncertainty surrounding what has been approved and what should be implemented. I do not therefore find that it was unreasonable to refuse the application.
10. The Council have confirmed why the application was refused. Having considered the Council's delegated report and decision notice, I am satisfied that both the delegated report and decision notice provides logical and fairly substantiated reasons for refusal which are neither vague nor generalised.
11. Given the exchange of correspondence between the parties I am satisfied there was contact and dialogue between the Council and the applicant during the processing of the application. While not all issues were resolved, I am not persuaded that the information submitted as part of this costs application demonstrates an unreasonable lack of co-operation on the part of the Council.
12. I acknowledge the differences in date as set out on the decision notice and the actual date this notice was issued. I also note that a different department of the Council's Planning Service commented after the date of the decision notice but before it was issued. However, there is no evidence before me that this directly led unnecessary or wasted expense.

Conclusion

13. As a result, having carefully considered the above, I conclude that unreasonable behaviour by the Council, as described in the Guidance, has not been clearly demonstrated. Therefore, in my view, unnecessary or wasted expense has not been incurred by the applicant. Consequently, the application for an award of costs is refused.

N Praine

INSPECTOR