
Costs Decision

Site visit made on 12 January 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Costs application in relation to Appeal Ref: APP/P5870/W/22/3303782 2 Tilehurst Road, Cheam SM3 8PB

- 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 Harryharinis Limited for a full award of costs against the Council of the London Borough of Sutton.
 - The appeal was against the refusal of planning permission for demolition of garage and sheds, erection of a detached two storey dwelling, erection of a two-storey side extension to the existing property, relocation of vehicle crossover, parking, cycle and bin storage areas.
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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 costs may be awarded against a party who has behaved unreasonably where the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal and with respect to the substance of the matter under appeal. Examples of unreasonable behaviour may include preventing or delaying development which should clearly be permitted or failure to produce evidence to substantiate each reason for refusal on appeal.
4. The applicant for costs contends that the Council wrongly charged a planning fee for the planning application, which they consider should have benefitted from a fee waiver under Regulation 9 of The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as amended). The applicant also considers that the Council has adopted an obstructive and rigid approach to development management, including delays, a lack of communication, negotiation and flexibility, and conflation of issues.
5. In the first instance, only the unnecessary or wasted costs of the appeal itself can be recovered by an award of costs. Therefore, even if I were to agree with the applicant's conclusions on the planning fee, this is beyond the remit of this decision as it is not a cost incurred in pursuance of the appeal.
6. The reasons for refusal are set out clearly in the Council's decision notice. Further justification is provided in the Council's Officer Report and appeal

statement. It will be clear from my decision that I have reached a different view to the Council on the acceptability of the appeal scheme. Nevertheless, these are matters of planning judgement, and the Council's reasoning is supported by an objective analysis with reference to the provisions of national and local planning policy and guidance. I therefore find that the Council has not acted unreasonably in refusing planning permission.

7. Regarding the Council's approach to development management, including the level of communication and negotiation, I find as follows. There is no compelling evidence before me to substantiate that the Council's handling of the planning application was deficient in these respects. Also, the evidence before me does not clearly indicate that the views of both parties could have been reconciled and the appeal avoided had further discussions taken place.
8. Furthermore, although the PPG and National Planning Policy Framework encourage local planning authorities to take a positive approach and work proactively with applicants, I have little substantive evidence which indicates that pre-application discussions could not have been undertaken on the merits of the scheme had they been requested, or that the Council was under an obligation to work with the applicant during the determination period.

Conclusion

9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Ryan Cowley

INSPECTOR