



Costs Decision

Site visit made on 5 April 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 MAY 2023

Costs application in relation to Appeal Ref: APP/P3610/W/22/3307343 289 London Road, Ewell, Surrey KT17 2BZ

- 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 Jonathan McDermott, Open VU for a full award of costs against Epsom and Ewell Borough Council.
 - The appeal was against the refusal of planning permission for erection of 3-bedroom detached dwelling following the demolition of existing garage (amended scheme).
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the 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. Costs cannot be claimed for the period during the determination of a planning application. However, behaviour and actions at the time of a planning application can be taken into account in consideration of whether or not costs should be awarded¹.
3. PPG advises that where local planning authorities have exercised their duty to determine a planning application in a reasonable manner, they should not be liable for an award of costs. Where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application.²
4. The applicant claims that the Council has persisted in objections to the scheme that are both unreasonable and not borne out by the facts; and in refusing the planning application, the Council behaved unreasonably; that the Council failed to be consistent in its decision making; and did not afford the proper weight to previous decisions.
5. There is little evidence before me to detail or substantiate these particular claims. The Planning Report regarding the planning application clearly sets out the planning history of the site. It addresses matters pertaining to consistency

¹ Paragraph 028 Reference ID: 16-28-20140306

² Paragraph 050 Reference ID: 16-050-20140306

with previous decisions, extant permissions and relevant case law. The weight to be applied to material considerations is a matter for the decision maker, and the report clearly references such matters.

6. The Council's decision notice clearly sets out the reasons for the refusal, including the specific aspects of the proposal which were considered to conflict with the development plan and other relevant documents. The Council has provided a statement of case to the appeal.
7. Furthermore, the applicant claims that the Council knowingly and wilfully failed to properly assess the internal floorspace of the proposal, and as such, the second reason for refusal is without planning merit. However, the planning application is not accompanied by drawings or information to demonstrate any proposed roof layout nor to detail any internal storage space provided within any proposed loft space. Consequently, it was reasonable for the Council to find that the proposed development would not meet the prescribed standards, and in this regard, the second reason for refusal is unequivocally based on the planning merits of the scheme.

Conclusion

8. For the reasons above, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not occurred and an award of costs is not warranted.

J Moore

INSPECTOR