



Costs Decision

Site visit made on 12 June 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 JUNE 2023

Costs application in relation to Appeal Ref: APP/K3605/W/22/3313071 Two Oaks, Castle View Road, Weybridge, Surrey KT13 9AA

- The appeal 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 appeal is made by Mr Naftoli Rudzinski (View Castle Estates Ltd) against the decision of Elmbridge Borough Council.
 - The development proposed is described as the 'installation of lift and alterations to refuse area.'
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Decision

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

Reasons

1. The Planning Practice Guidance (PPG) makes it clear that parties in planning appeals normally meet their own expenses. It also sets out that costs may only be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
2. The PPG sets out that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals.
3. The applicant has raised several issues. Unreasonable behaviour may include failure by the planning authority to substantiate a stated reason for refusal of planning permission or relate to a procedural process.
4. The Councils refusal reasons set out the harm identified clearly and the relevant development plan policies relating to these issues. The Officer Report discussed these issues. Whilst I have found differently in terms of the impact upon trees, the Officer Report sets out the relevant development plan policy and the issues the Council had with this, including the Tree Officer comments. As such, I find that the Council has substantiated each reason for refusal, and I do not find that the Council has prevented or delayed development which should clearly be permitted.
5. Requiring alterations to the location of the bin storage area would fundamentally alter the proposed scheme and would need to be subject to

further notification and consultation. A condition requiring this would not meet the tests of the Framework.

6. Given the fundamental issues found by the Council, it is not unreasonable to refuse the application without seeking amendments. I note that no pre-application advice was sought by the applicant.
7. Having regard to these matters I find that the Council has acted reasonably in the appeal process. Accordingly, unreasonable behaviour has not therefore been demonstrated in respect of these matters. The work undertaken by the applicant in this regard was a necessary part of his case.

Conclusion

8. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for an award of costs is therefore refused.

B Phillips

INSPECTOR