



Costs Decision

Site visit made on 19 September 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2023

Costs application in relation to Appeal Ref: APP/L5810/W/22/3309366 21 Conway Road, Whitton, TW4 5LL

- 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 Mr B Sandhu for a full award of costs against the Council of the London Borough of Richmond Upon Thames.
- The appeal was against the refusal of planning permission for the construction of a block of 6 flats with associated parking, vehicular access and rear amenity space following the demolition of existing dwelling.

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.
3. The applicant claims that by the Council withdrawing their defence of refusal reason 2 relating to the payment of a commuted sum in lieu of provision of on-side affordable housing, they have displayed unreasonable behaviour.
4. The Council's Officer report is clear that based on viability evidence submitted by the applicant verified by the Council's independent Viability Assessor that a commuted sum could not reasonably be requested in this instance. However, this stance is not reflected by the inclusion of the second reason for refusal in the officer's recommendation and the decision notice. Although the Council accepted during the appeal that they did not wish to defend the refusal reason, they have not explained the reason for its inclusion in the recommendation and decision notice. In my opinion, this amounts to unreasonable behaviour.
5. Nevertheless, it has not led the applicants to incur unnecessary or wasted expense to demonstrate their case at the appeal stage as no further information has been provided with the appeal. Simply spending time and instructing an agent to undertake an appeal which included other reasons for refusal is not considered an unreasonable expense in this instance.
6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. As a result, an award of costs is not warranted and accordingly refused.

K L Robbie

INSPECTOR