



Costs Decision

Hearing held on 31 October 2023

Site visit made on 1 November 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2023

Costs application in relation to Appeal Ref: APP/K3605/W/22/3310449 Land north of Ramli, Beech Close, Cobham KT11 2EN

- 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 Mercatura Developments Ltd for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for a detached two-storey block of 5 flats with rooms in the roof space, bin and cycle stores and associated access and landscaping.
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Decision

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

The submissions

2. The costs application was submitted in writing and the Council responded in writing. No additional points were made by either party at the Hearing.

Reasons

3. 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.
4. The applicant considers that the Council have behaved unreasonably by going against the recommendations of its planning officer, who considered the proposal to be policy compliant both at a local and national level; and failing to determine similar applications in a consistent manner.
5. Elected Members of the Council are not duty bound to follow the advice of the professional officers. If a different decision is reached, the Council must clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. From the information before me I am satisfied that the Council have demonstrated such reasoning, and this is reflected by the applicant's appeal submission which clearly shows understanding of the reasons for refusal.
6. Turning to the Council's consistency in decision making, the applicant has brought to my attention a singular application approved by the Council, reference 2019/2469¹. They contend that the Council has shown a lack of consistency in the way it has dealt with 2019/2469 and the scheme before me,

¹ Fairfield Lodge, 32 Green Lane, Cobham, Surrey KT11 2NN

with specific regard to the living conditions of the occupants of adjacent properties and character and appearance.

7. It is noted that the Council did not refuse the scheme before me on grounds relating to the living conditions of occupiers of adjacent properties. I have also acknowledged the appellant's perspective in terms of character and appearance, as set out within the appeal decision letter. Nevertheless, from the information before me I am satisfied that both schemes are markedly different in terms of their location, that proposed, and the evidence submitted within each case, and that the Council, using planning judgement, have considered each scheme on its own merits. Therefore, I do not consider this to show decisions being made in an inconsistent manner.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

RJ Redford

INSPECTOR