
Costs Decision

Site visit made on 4 March 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Costs application in relation to Appeal Ref: APP/K3605/W/23/3332678 123 Walton Road, East Molesey, Surrey KT8 0DT

- 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 Elmbridge Borough Council for a full/partial award of costs against Dominic Manser.
 - The appeal was against the refusal of the Council to grant planning permission for the construction of 7no. one bedroom residential units following demolition of existing commercial workshops, offices and storage buildings.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, Planning Practice Guidance (PPG) advises that costs may 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.
3. The claimant states that the costs application is made on the basis that the appellant has failed to fund a review of their own viability report by the Council.
4. The appellant claims that they did pay the cost for that review, a sum of £2310, but that fee was later refunded to them. That is not indicative of unreasonable behaviour on the part of the appellant.
5. It is not overly clear which party decided that the fee should be refunded or whether this was done in agreement between the parties but arranging to do so would have likely required dialogue.
6. Ultimately, whether or not to have that viability assessment independently reviewed appears to have been within the choice of the Council, whom it appears were paid the fee to do so early in the application process.
7. In any event, regardless of the above matters, the evidence indicates that the Council has not incurred any additional expense as they did not have that viability review carried out by their consultants and as a result have not incurred additional cost in the appeal process.

Conclusion

8. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

T Burnham

INSPECTOR