



Costs Decision

Site visit made on 27 February 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th April 2024

Costs application in relation to Appeal Ref: APP/K3605/W/23/3324355 56 Grove Way, Esher, Surrey KT10 8HN

- 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 M Daniel (D&G (Thames Ditton) Ltd) for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of existing fire damaged house, ancillary outbuildings and removal of TPO tree. Construction of two semi-detached 3-bed dwellings, including ancillary structures, associated infrastructure and hard and soft landscaping works including replacement tree planting.
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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.
3. The claim is based on the assertion that the planning application was refused by Planning Committee Members, contrary to the recommendation of professional officers. The appellant considers the refusal reason has no foundation and the change from the original view of the officer that the development was policy compliant to being perceived by the Committee Members to conflict with planning policy amounts to unreasonable behaviour.
4. It is a well-established and fundamental principle that Planning Committee Members are not bound by the advice of their officers and are entirely within their rights to exercise judgement and maintain objections where they have a legitimate basis from the evidence and information available to them. The fact that Planning Committee Members may have a different view to their professional officers and the appellant does not in itself constitute unreasonable behaviour.
5. In this instance, the first planning application for three dwellings on this site was refused and subsequently dismissed at appeal. This was followed by a second application where the previously proposed plot 3 was replaced with a detached garage. Given the similarities between both schemes, it was not unreasonable for Planning Committee Members to conclude that the reason for refusal in relation to character and appearance had not been fully addressed.

6. The scheme subject to this appeal is similar to the second application, which was refused and subsequently dismissed at appeal. I appreciate that the Inspector's decision in relation to the second application was released after members considered this case. Nevertheless, the Committee's decision was well-founded and justified and indeed was not dissimilar from the Inspector's decision regarding the second application.
7. The appellant refers to the impact on the building line of Grove Way. However, on the evidence, it appears that the reason for refusal of the current appeal scheme related to the impact on the streetscene of Cranbrook Drive, in particular with the siting and size of the garage. Indeed, the reason for refusal does not specifically mention the impact on the building line of Grove Way and, on the evidence, my understanding is that the siting of the dwellings is not under dispute on the case before me.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

P Terceiro

INSPECTOR