



Costs Decision

Site visit made on 28 March 2024

by R Lawrence MRTPI, BSc (Hons), PGDip (TP)

an Inspector appointed by the Secretary of State

Decision date: 7th June 2024

Costs application in relation to Appeal Ref: APP/P3610/W/23/3329486 Hobbledown, Horton Lane, Epsom KT19 8PT

- 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 Hobbledown Limited for a full award of costs against Epsom and Ewell Borough Council.
 - The appeal was against the refusal of planning permission for the erection of perimeter boundary timber fencing, relocation of entrance gates and installation of gas tank holder (retrospective).
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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 alleges that the Council has behaved unreasonably in refusing the application on highway safety grounds, unsupported by any objective analysis or opinion. As a result, it is stated that the Council has delayed development that should have been permitted.
4. The Council, or more specifically its Planning Committee, refused the planning application against officer advice, and that of the County Highway Authority. Whilst a planning committee is entitled to make decisions that are contrary to the officer recommendation, where this occurs it should show reasonable planning grounds for taking a contrary decision and produce sound, substantive and defensible evidence on appeal to support the decision in all respects.
5. The Council's evidence was vague and generalised in terms of explaining how any harm to highway safety would occur, including in terms of which elements of the scheme would cause the alleged harm. Whilst the original application and the appeal was supported by technical drawings, illustrating matters such as the manoeuvrability within the site, no technical or other substantiated evidence was provided in defence of the reason for refusal.
6. I have found in my appeal decision that the proposal would enable the safe manoeuvring of vehicles within the site and would not result in a detrimental effect on highway safety. As such, on the evidence before me, it is clear that the Council have delayed development that should have been permitted.

7. The appellant has referred to resulting impacts on their business operations and delays to undertaking highway safety improvements. Even if I were to accept these impacts had occurred, the role of the costs process is limited to unnecessary or wasted expense in the appeal process.

Conclusion

8. Given the above, I am of the view that unreasonable behaviour as described in the PPG has been demonstrated on the part of the Council and this has resulted in the applicant's unnecessary expense in contesting the appeal. A full award of costs is therefore justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Epsom and Ewell Borough Council shall pay to Hobbledown Limited, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Epsom and Ewell Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Lawrence

INSPECTOR