



Costs Decision

Site visit made on 8 October 2024

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th NOVEMBER 2024

Costs application in relation to Appeal Ref: APP/P5870/X/24/3339298 Land at 27 Burdon Lane, Cheam, Sutton SM2 7PP

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by the Council of the London Borough of Sutton for a full award of costs against Mr David Briault (Boathouse Properties Ltd).
 - The appeal was against the refusal of a certificate of lawful use or development for the formation of a vehicle access, comprising an existing dropped kerb and vehicular crossover.
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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 Council has outlined that time and expense has been incurred in defending an appeal that has no legal basis. The Council acknowledge that the accompanying appeal related to building operations to form the vehicle access, and not a use of land. Despite expressing doubts about the access relating to a use of land, the Council claim that the appellant insisted on the description of development including reference to access to the land. If the appellant had agreed with the Council at application stage, then the LDC would have been granted and the appeal could have been avoided.
4. I have had regard to the Council's case, but they have not provided any substantive evidence, which demonstrates that the Council requested an amendment to the description and the appellant refused. The appellant also disputes the Council's claims of expressing doubts during the application stage. In fact, the appellant contends that a separate LDC application with a description limited to the building operations to form the access was also refused by the Council in January 2024.
5. Notwithstanding the above, the PPG indicates that a local planning authority may choose to issue an LDC for a different description from that applied for, as an alternative to refusing a certificate altogether¹. As such, even if the appellant was resistant to a change to the description, it was still within the

¹ Paragraph: 009 Reference ID: 17c-009-20140306

Council's remit to issue the LDC for the formation of the vehicle access rather than refusing the application, which resulted in the subsequent appeal.

Conclusion

6. Therefore, I consider that unreasonable behaviour, resulting in unnecessary or wasted expense in the appeal process, has not occurred in this instance and an award of costs is not warranted.

M. P. Howell

INSPECTOR