



Costs Decision

Site visit made on 5 November 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2024

Costs application in relation to Appeal Ref: APP/T5720/W/24/3345759 4 South Park Road, Wimbledon, Merton, London SW19 8ST

- 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 D Ivanov of DNI Properties Limited for a full award of costs against the Council of the London Borough of Merton.
- The appeal was against the refusal of prior approval for the proposed erection of a single additional storey over the existing three storey building, providing 2 x 2 bed flats.

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 applicant seeks a full award of costs as they consider the Council has been inconsistent by granting prior approval for a similar proposal at 8 South Park Road and refusing their application for a reason that the Council did not consider relevant when considering the proposal at no.8. In addition, the applicant seeks costs due to the Council not setting out in detail how a helipad on a building would be regarded as an aerodrome, and thereby lead to conflict with the relevant parts of Class A Part 20, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
4. In my decision, I found that the appeal site is within 3km of an aerodrome, consequently the proposal cannot be permitted development in accordance with Class A, Part 20, Schedule 2 of the GPDO. Therefore, this appeal could not have been avoided, including the costs associated with making it.
5. The Council has set out why there would be conflict in terms of the proximity to the aerodrome within its report and notice of decision, and they have elaborated on this further within its statement and its response to the applicant's costs claim. The Council's approach to the aerodrome is entirely reasonable and in accordance with the GPDO.
6. It is noted that the Council granted prior approval¹ for a similar proposal at no.8, and an earlier appeal decision² relating to a prior approval application for an additional storey of accommodation at no.8 under these same provisions of

¹ Application No: 21/P3487

² Appeal Ref: APP/T5720/W/20/3265316

the GPDO (that was dismissed), did not raise the proximity of no.8 to the aerodrome. The Council has acknowledged that its approach changed after it became aware of the interpretation of an aerodrome, including a helipad, on another appeal decision³ elsewhere. Hence when the appeal scheme was submitted it was assessed differently to that at No.8. As it was not identified as a matter in issue between the parties when the Inspector determined the earlier appeal at No.8, it is likely that it was not explicitly referred to in that decision.

7. It is accepted that there has been some inconsistency in the way the Council has considered the appeal proposal compared to the earlier such applications at No.8. Nevertheless, in terms of the appeal scheme before me, the Council has properly applied the GDPO and the interpretation of an aerodrome, and in doing so, there has been no unreasonable behaviour in this case.

Conclusion

8. For the above reasons, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and I therefore conclude an award of costs is not warranted.

A Hunter

INSPECTOR

³ Appeal Ref: APP/E5900/W/21/3279527