



Costs Decision

Site visit made on 26 November 2024

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2024

**Costs application in relation to Appeal Ref: APP/L3625/W/24/3348491
296, 298 And Rear Of 300 Fir Tree Road, Epsom Downs , Surrey , KT17
3NN**

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. In the planning appeal, the Council officers had recommended approval of the application but the Planning Committee decided to refuse permission for the two reasons given. The Committee is not bound to follow the recommendation of the officers but nevertheless the decision must be made on proper planning grounds and these must be capable of clear justification. The appeal also had to be considered in the context of a previous appeal decision made in 2017 for a similar form of development but in outline form. The Council had adopted its Development Management Plan since then and therefore a different policy regime applied.
4. The first reason for refusal referred to the effect on the character and appearance of the area. This involved a planning judgement but the reference to a cramped form of over-development was not substantiated by any real evidence. There was reference to an 'oblique form' and a pinch point between two of the plots but these were very minor aspects and do not demonstrate a poor residential layout. There was also a reference back to the previous layout dismissed at appeal but this was a different outline layout and the inspector's comments were about the additional plot formed in the rear garden element of No. 294 Fir Tree Road, which was not part of the present appeal scheme. There was also reference to the inspector's comment about an irregular shaped siting for the new frontage plot but this did not properly take into account the changes proposed in the current scheme where the replacement dwelling at no. 296 would maintain the form set by No. 294. Further, it is clear that the set-back of the new house would have provided a better landscaped setting to the road in the street frontage.
5. Considered as a whole I find that the Council did not put forward adequate clear evidence to back up the judgment that the scheme would harm the character and appearance of the area.

6. The second reason for refusal alleged harmful noise and disturbance arising from the use of the new access on the living conditions of the occupiers of No. 300 Fir Tree Road. This was not a concern of the previous inspector. It was also established that two cars could pass on the width of the access road put forward and it was incorrect for the Council to say that there would be insufficient space for vehicles to pass. Moreover there was no assessment or breakdown on how the level of traffic generated by the 5 houses would give rise to noise and disturbance which would harm the living conditions of the occupiers of No. 300. This reason was therefore spurious.
7. Overall I conclude that the Council has not been able to properly justify its case for refusal on clear planning grounds and it has therefore acted unreasonably in refusing planning permission for the reasons stated. The appellant has been put to the unnecessary costs of an appeal.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

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 Reigate and Banstead Borough Council shall pay to Denton Homes Ltd, 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.

The applicant is now invited to submit to the 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.

David Murray

INSPECTOR