



Costs Decision

Hearing held on 21 January 2025

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Costs application in relation to Appeal Ref: APP/Z5630/W/24/3348972

- 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 Rokeby Educational Trust Limited for a full award of costs against Royal Borough of Kingston Upon Thames.
- The appeal was against the refusal of planning permission for provision of three classrooms at first floor level above the existing sports hall (ensuring the ridge height remains unchanged) located on the eastern boundary together with the single storey extension of the existing Design and Technology classroom to the rear, new electrical substation and associated works. Capping pupil numbers to 420.

Rokeby School, George Road, Kingston upon Thames, KT2 7PB

Decision

1. The application for an award of costs is refused.

The submissions for Rokeby Educational Trust Limited

2. The costs application was submitted in writing, with the rebuttal to the Council's response given orally at the hearing.

The response by the Royal Borough of Kingston Upon Thames

3. The response was made in writing.

Reasons

4. 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.
5. It states examples of unreasonable behaviour include (i) preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; (ii) failure to produce evidence to substantiate each reason for refusal on appeal and (iii) vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis (iv) if it refuses planning permission on a planning ground capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the proposed development to go ahead.

6. Therefore, the first issue is whether the Council have provided sufficient evidence to substantiate their reasons for refusal at appeal. The two reasons for refusal as set out in the decision notice are complete, precise, specific and were relevant to the application. They also clearly state the policies that the proposal would be in conflict with.
7. However, with regard to whether the development should have been clearly permitted and whether the proposals impacts were supported on objective analysis and whether the development could have been granted with the imposition of a suitably worded condition are more fundamental in whether the Council acted unreasonably in refusing planning permission.
8. The Council accepted during the hearing that the submitted School Travel Plan 2024 was robust and would provide for a reduction in pupil numbers travelling by car. The Travel Plan could be secured by obligation and/or planning condition and provides sufficient mitigation to ensure that the scheme is acceptable. The Council's main concern was whether sufficient regard had been had to the failings of the 2011 School Travel Plan.
9. The application was with the Council for 11 months and prior to this had been subject to five pre-application meetings. This demonstrates the Council have endeavoured to work with the applicant and some matters were resolved through the submission of additional information.
10. Further evidence was submitted in April 2024 to address concerns with the submitted travel plan, however this was not accepted by the Council. Noting the length of time that the Council had been considering the application it was not unreasonable for them to determine the application on the basis of the information before them, as they had previously worked with the applicant to allow additional information to be submitted
11. As such I am content that the Council had reasonable grounds to draw its consideration of the application to a close and that without the additional evidence that was submitted as part of the appeal it was not possible for them to have resolved these matters through the imposition of a condition.
12. The applicant has indicated that the Council's behaviour led to unnecessary or wasted expense in terms of submitting the appeal. However, as I consider that the appeal could not be avoided, these would all be necessary expenses in order to take part in the appeal process.
13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

G Pannell

INSPECTOR