
Costs Decision

Hearing held on 20 March 2025

Site visit made on 20 March 2025

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2025

Costs application in relation to Appeal Ref: APP/Z5630/W/24/3354195

3 South Terrace, Surbiton, Kingston Upon Thames KT6 6HT

- 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 and Mrs Turnbull for a full award of costs against the Council of the Royal Borough of Kingston Upon Thames.
 - The appeal was against the refusal of planning permission for the development described as the conversion of building from 3no. flats to single family dwelling and refurbishment of Grade II listed property, including removal of out of character items and replacing with original/Georgian style items. Fenestration and internal alterations and installation of solar panels on the roof.
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Decision

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

The submissions for Mr and Mrs Turnbull

2. The costs application was submitted in writing. However, on review of the response from the Council the following additional points were made orally: that the substantive grounds forwarded by the applicant have not been addressed, nor the legal or policy requirements in respect of the protection of heritage assets tackled.

The response by the Council of the Royal Borough of Kingston Upon Thames

3. The response was made in writing and nothing was added within the Hearing.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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. The applicants consider that the Council have behaved unreasonably by preventing and delaying development which should have clearly been permitted having regard to; its accordance with the development plan and national planning policy, well-established case law¹ in terms of the weight given to the preservation and enhancement of heritage assets, and the Council's own conclusions within the Listed Building Consent for identical works.
6. Core Strategy Policy DM14 clearly seeks to prevent the loss of existing accommodation of all types, and the applicants do not dispute that the proposal

¹ R (Forge Field Society) and Ors. V Sevenoaks District Council [2014] EWHC 1895 (Admin)

would result in the loss of 2 dwellings. Although within the appeal the need for family housing has been noted, this does not overcome the lack of compliance with Policy DM14. Nor has any local or national policy been brought to my attention which negates the lack of compliance with Policy DM14, or the objective of the National Planning Policy Framework (the Framework) to significantly boost housing. Therefore, in terms of the loss of housing, I find for the Council and agree that the proposal would fail to accord with the development plan and national planning policy on this matter.

7. Further to this it is not disputed, and there is nothing before me to conclude otherwise, that the proposal would comply with the relevant development plan policies and national planning policy in relation to the preservation of heritage assets, and this is reflected in the approved listed building consent. On review of the Council's submission, I am also satisfied it has sufficiently discharged its duties in relation to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) appropriately when considering the heritage impact of the proposal within the planning application, so aligns with established caselaw.
8. It is clear from the appeal that there is a conflict within the proposal in terms of the benefits relating to heritage, and disbenefits relating to loss of housing. However, how the Council has chosen to weigh these factors within the planning balance is entirely a matter of planning judgement.
9. Whilst I understand the appellants' perspective, and have allowed the appeal, the Council's planning balance was fairly substantiated both within the application and appeal process. Further I accept that the balance, and therefore potential weighting, can be different between that within a planning application and that within a listed building consent application. Consequently, I do not consider the Council to have behaved unreasonably.
10. The appellants have also stated the Council have shown a lack of cooperation in terms of post-refusal advice and determination of subsequent applications. Although unfortunate, it is clear the crux of the appeal is down to the different weight given to various factors of that proposed, both positive and negative, by both parties. With this in mind it is unlikely that a more proactive approach by the Council would have ultimately negated the need for an appeal, and the costs that entails.
11. Consequently, taking into consideration the evidence before me, and for the reasons given above I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

RJ Redford

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Paul Stinchcombe KC

39 Essex Chambers

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Forrest

Planning Case Officer