

Costs Decisions

Site visit made on 18 October 2016

by L Fleming BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4th November 2016

Costs application in relation to Appeal Ref: APP/K3605/W/16/3151674 8 Arnison Road, East Molesey, Surrey KT8 9JJ

- 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 Ms Zoe Foxman for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for construction of two storey dwelling and associated and formalisation of access.
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Costs application in relation to Appeal Ref: APP/K3605/W/16/3151675 8 Arnison Road, East Molesey, Surrey KT8 9JJ

- 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 Samuel Foxman for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for construction of two storey dwelling and associated and formalisation of access.
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Decisions

Application A: APP/K3605/W/16/3151674 ('Appeal A')

1. The application for a full award of costs is refused.

Application B: APP/K3605/W/16/3151675 ('Appeal B')

2. The application for a full award of costs is refused.

Reasons

3. 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.
 4. The appellant alleges that the Council has acted inappropriately in reaching its decision on both planning applications for a number of reasons including whether the applications should have been determined by the relevant committee, attendance and participation at the committee meeting, and the failure to disclose information relevant to the planning applications which has prevented the opportunity for the appellant to respond. It is alleged that these factors amount to procedural breaches and have led to an apparent bias in the Council's decision on the planning applications.
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5. However, these allegations relate to events which mainly took place before the appeals were lodged as opposed to the merits of the decisions and are thus not matters for my consideration. I have to determine whether the appellants have incurred unnecessary or wasted expense as a result of the decisions and their subsequent involvement in the appeal process. Thus, I find that the appeals were inevitable and therefore, in this regard, unnecessary or wasted expense has not been demonstrated.
6. It is also alleged that the Council has failed to produce evidence to substantiate each reason for refusal and made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
7. However, in my view each of the reasons for refusal is substantiated by the Officer's Report. With regard to the first reason for refusal, the Officer's Report includes an assessment of the proposed developments and their impact on the character and appearance of the area with reference to relevant evidence and consultation with the Council's Conservation Officer, including reference to No 25A Arnison Road. The second and third (Appeal A only) reasons for refusal are substantiated by a reasoned judgment about the impacts of the proposed developments on No 16 Bridge Gardens and No 8 Arnison Road with regard to the Elmbridge Borough Council Design and Character Supplementary Planning Document (2012) and the Council's own judgement on noise and disturbance.
8. For these reasons, I consider that the Council's decisions were not unreasonable on their planning merits and the Council has provided sufficient evidence to support its decision in the determination of both Application A and Application B and therefore find that unreasonable behaviour resulting in unnecessary expense has not been demonstrated.

L Fleming

INSPECTOR