



Costs Decision

Site visit made on 21 September 2022

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2022

Costs application in relation to Appeal Ref: APP/K3605/D/22/3304788 8 Tellisford, Esher KT10 8AE

- 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 & Mrs P Neal for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for alterations to the existing side extensions.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG), at paragraph 030, 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 appellant's application for costs comprises two claims against the Council for unreasonable behaviour:
 - failing to provide evidence to substantiate each reason for refusal; and
 - preventing or delaying development which should clearly be permitted.
4. The sole issue contained within the Council's reason for refusal relates to the effect of the proposed development on the living conditions of occupiers of 9 Tellisford, with regard to outlook and sunlight. On the decision notice, it is complete, precise, specific and relevant to the application. It also clearly states the local and national planning policies the proposed development would conflict.
5. Within the officer's report, the Council have set out the reasons why the proposed development would be contrary to the provisions of the development plan. However, two incorrect heights relating to the proposed roof height and the height of the fallback position were used in the Council's assessment. The Council has confirmed these errors. Therefore, whilst evidence to substantiate the reason for refusal was provided by the Council, this evidence was not correct and constitutes unreasonable behaviour.
6. Despite this, the Council confirm that, even if the correct heights were used within their assessment, the planning application would have been refused. Therefore, this appeal would still have been required.

7. Turning to the second point, the appellant claims that as the Council's decision was based on a misinterpretation of the facts of the case, they have prevented or delayed development which should clearly be permitted. Given the Council's assessment of the planning application would also have resulted in a refusal, even if the correct heights were used, no unnecessary or wasted expense has occurred.
8. Although I conclude that the Council has behaved unreasonably, this behaviour has not resulted in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Juliet Rogers

INSPECTOR