
Costs Decision

Site visit made on 31 October 2022

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 DECEMBER 2022

Costs application in relation to Appeal Ref: APP/Z5630/W/22/3299340 9 West Road, Malden Rushett, Chessington KT9 2NR

- 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 the Council of the Royal Borough of Kingston Upon Thames for a full award of costs against Mr M Szymanski
 - The appeal was against the refusal of planning permission for the demolition of bungalow and erection of 2 x 4 bed semi-detached houses'.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) makes it clear that parties in planning appeals normally meet their own expenses. It also sets out that costs may only be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG advises that unreasonable behaviour can include '*providing information that is shown to be manifestly inaccurate or untrue*' (paragraph 52- 16-052-20140306) and '*the development is clearly not in accordance with the development plan*' (p53-16-053-20140306).
4. Whilst the Council contend that this is the case with regards to consideration of matters relevant to the first reason for refusal, I consider that there is a disagreement with regards to the particulars and interpretation of Green Belt policy and the issue of inappropriateness, rather than the appellant providing manifestly inaccurate or untrue information. The appellant has set out their case, and whilst I have reached a different conclusion in respect to openness, the areas in dispute relate to matters of subjective planning judgement.
5. The Council also point to assertions regarding the taking up of fresh land, overall height of the building, consistency with established built form, parking space size and securing ecological survey via conditions. Whilst the Council has set out their case clearly with figures in relation to height and footprint increase, the appellant has argued their case in relation to a more general perception of character and appearance and consistency with properties opposite the site, rather than the neighbouring dwellings. This is not unreasonable and also relates to matters of subjective planning judgement. Moreover, I have not found harm in relation to character and appearance matters. With regards to the taking up of fresh land, a

misunderstanding of garden space and the issue of openness and previously developed land does not indicate that the appellant has provided inaccurate or untrue information. Similarly, as set out in the decision, the securing of ecological surveys through conditions is not appropriate, however a misunderstanding in this respect does not indicate that the appellant has provided inaccurate or untrue information. The appellant did not provide final comments in response to the Council's appeal statement, which included the drawing showing the measured car parking spaces, however, whilst I have found otherwise, it is not unreasonable to consider that a slight increase in space size could be secured via condition.

6. The appeal statement clearly sets out the appellant's views. In addition, the appeal statement refers to relevant policy and refers to material considerations, such as housing supply issues, which had some prospect of resulting in the conclusion that other considerations outweighed the conflict with the development plan. I do not therefore consider that there was clearly no reasonable prospect of the appeal succeeding.

Conclusion

7. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for an award of costs is therefore refused.

B Phillips

INSPECTOR