



Costs Decision

Site visit made on 21 March 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2023

Costs application in relation to Appeal Ref: APP/X1165/D/22/3305896 Woodland, Greenway Road, Chelston, Torbay, Torquay TQ2 6JE

- 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 S Nijjar for a full award of costs against Torbay Council.
 - The appeal was against the refusal of planning permission for the replacement of existing conservatory and two storey extension.
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Decision

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

Reasons

2. 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.
3. The applicant claims that the Council has acted unreasonably in the following ways:
 - Procedural: not working in a positive or proactive manner given the lack of engagement with the applicant during the determination of the planning application, despite an invitation to a site meeting; and
 - Substantive: preventing or delaying development which should clearly be permitted, having regard to the development plan, national policy and any other material considerations.
4. The applicant considers that the Council exhibited unreasonable behaviour by not attending a site meeting, undertaking a site visit unannounced and due to the lack of proactive working to seek amendments during the processing of the planning application. The fact that the Council's Planning Officer did not participate in a site meeting nor provide advance warning of a site visit, given the scale of the proposed development, is not, in my view, unreasonable. As the Council provide a pre-application advisory service, the opportunity exists for the applicant to discuss the proposed development prior to submitting the planning application. Furthermore, the Council are under no obligation to engage with an applicant, in terms of amendments, once a planning application is being determined.
5. As can be seen from my decision letter, I have concerns regarding the effect of the proposed development on the character and appearance of the area, and the living conditions of neighbouring occupiers. As a result, I have concluded that it would conflict with the development plan when considered as a whole,

and material considerations, including national policy, do not indicate that a decision should be made other than in accordance with the development plan.

6. Accordingly, I do not conclude that the Council prevented or delayed development which should clearly be permitted. I have found that the Council had reasonable concerns about the impact of the proposed development. The appeal, therefore, could not have been avoided.
7. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Juliet Rogers

INSPECTOR