

Costs Decision

Site visit made on 19 February 2024

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2024

Costs application in relation to Appeal Ref: APP/Q5300/D/23/3333244 4 Kingwell Road, Enfield EN4 0HY

- 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 Prestcote for a full award of costs against Enfield Council.
 - The appeal was made against the refusal of planning permission for a single storey front extension, extension to roof at sides to form gable ends together with front and rear dormers and front and rear rooflights.
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Decision

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

Reasons

2. *Planning Practice Guidance* advises that costs may 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. The council has not responded to the applicants' allegations so I have considered them on the basis of the information before me.
 3. It is alleged that the council acted unreasonably by adopting an inconsistent approach to decision-making with regard to the planning application that led to the appeal and a similar previous proposal; and they made errors in the management of both applications.
 4. Evidence has been provided which indicates that a decision on a previous application referred only to the adverse impact on the amenities of the neighbouring residents. The second application omitted those elements of concern but was then refused due to issues regarding the appearance of the proposed front elevation. This concern was not included in the decision notice of the first refusal. As the front elevation was the same for both proposals, it is evident that the council was inconsistent in its decisions. This represents unreasonable behaviour by the council.
 5. The second delegated report makes reference to the first decision having two reasons for refusal rather than the single reason reported on the issued decision letter. The report for the first refusal was not provided to the applicant or provided within the electronic register by the council. In the absence of a response from the council, it is not possible to establish exactly what occurred. It is evident however that the situation has been entirely unsatisfactory and the
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council's failure to respond to the cost case is unhelpful.

6. The applicants claim that the council's actions made an appeal necessary and that the costs of the appeal should therefore be awarded to the appellants. I must consider however, whether the appeal would have been avoided had the council acted reasonably. Although there have clearly been errors, it is evident that the council has a fundamental objection to the frontage of the proposal despite this concern not being recorded on the first decision notice. Had the reason for refusal been included on the first decision, the appellants may not have pursued a second application but this is not the subject of the costs claim. It would appear that had the council acted correctly, the reason for refusal relating to the appearance of the development would have appeared on both decisions. An appeal against the decision was therefore inevitable.
7. Although the appeal has been allowed, this was on the basis of planning judgement. I did not agree with the council's assessment but I also did not find their findings to be unreasonable. Although it is indisputable, given the first decision notice and the second delegated report, that the council made significant errors, their final decision on the second application was reasonable despite what had gone before. In these circumstances, the appeal was inevitable.
8. This procedure only addresses whether there was unreasonable behaviour and whether that behaviour resulted in unnecessary or wasted expense in the appeal process. There are other avenues for considering different complaints or concerns. However, in this case, although there has clearly been unreasonable behaviour, this has not resulted in unnecessary or wasted expense in the appeal process as the appeal was inevitable.
9. Overall, I conclude that the actions of the council represent unreasonable behaviour. However, I do not find that any wasted expense resulted from their actions as part of the appeal. I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the *Guidance*, has not been demonstrated and an award of costs is not therefore justified.

Peter Eggleton

INSPECTOR