



Costs Decision

Site visit made on 20 October 2025

by **C Housden BSc(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 DECEMBER 2025

Costs application in relation to Appeal Ref: APP/K3605/W/25/3371456

14 Mizen Way, Cobham, Surrey KT11 2RH

- 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 A Castle for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for a detached two-storey house with integral garage, outdoor swimming pool, detached pool house, entrance gates and driveway following demolition of existing house and garage without complying with conditions attached to planning permission ref 2024/3277, dated 07 March 2025.
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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 submission made by the applicant relates to their view that the Council had no reasonable grounds to refuse planning permission and the decision has been based on a misinterpretation of the facts of the case. In these circumstances the applicant considers the Council has failed to substantiate its reason for refusal and prevented or delayed development which clearly should have been permitted.
4. Whilst I have reached a different view on the main issue than the Council for the reasons given in my Decision Letter, the Council exercised planning judgement and substantiated in its statement of case that, in its view, the increased proximity of the proposed dwelling, in comparison to the previously existing dwelling, in relation to the adjacent neighbour warranted the window to be obscurely glazed to prevent overlooking and a resulting loss of privacy. No unreasonable behaviour has therefore occurred in this regard.
5. The applicant has referred to various tests which they consider to be factual and objective to support their case. However, the 45-degree test specifically relates to the BRE Guide in relation to daylight and sunlight, whilst the back-to-back separation distances, as set out in the Elmbridge Design Code (2024) does not apply to properties situated adjacent to one another. These tests are therefore not directly relevant to the main issue of the appeal. The Council not relying on these tests is not an unreasonable position to take.

6. Furthermore, the applicant has highlighted that the Council has misread the 45-degree drawing. However, even if that was to be the case, the Council also identify that it is a test that is not relevant to overlooking, a position I agree with. As such, no wasted expense has occurred.
7. I do not consider that the Council has failed to take into account the previous situation at the site or misinterpreted the facts of the case. The Council's refusal of the application has been substantiated, and the refusal has not delayed a development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. In these circumstances, the Council has acted reasonably which has not resulted in any unnecessary or wasted expense by the applicant.

Conclusion

8. Unreasonable behaviour resulting in unnecessary or wasted expense, as defined in the PPG, has not been demonstrated. Accordingly, the application for costs is refused.

C Housden

INSPECTOR