
Costs Decision

Site visit made on 15 November 2016

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 November 2016

Costs application in relation to Appeal Ref: APP/C1435/D/16/3155744 12 Brooklands Avenue, Crowborough TN6 3BP

- 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 Hugh Lippiatt for a full award of costs against Wealden District Council.
 - The appeal was made against the refusal to grant approval required under Schedule 2, Part 1, Paragraph A.4 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the Order) for a single storey rear extension with flat and pitched roof, brick to match existing.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. The applicant has applied for an award of costs based on the Council's unreasonable behaviour in refusing an application which was considered to comply with the Order. The applicant, therefore, incurred wasted expense in submitting an appeal which should not have been necessary.
3. The Council determined the application on the basis of application drawing No PD16107-02. It appears to have based its conclusion in part at least on the dimensioned height of the parapet wall around the flat roof of the proposed extension, rather than the height of the flat roof above the ground level adjoining the boundary with No 14. That approach is not supported by the Technical Guidance on Permitted development rights for householders¹.
4. Nevertheless, the height of the flat roof above the ground level adjoining the boundary with No 14 is not clear from drawing No PD16107-02. There is a significant difference in height between the eaves level of the short section of pitched roof close to the boundary with No 10, which is dimensioned as 2.953m on the application drawing, and the flat roof adjoining the boundary with No 14, which is not dimensioned. As such, it would be understandable to suppose that the height of the flat roof within 2m of the boundary with No 14 would be more than the maximum permissible 3m under paragraph A.1(i) of the Order.

¹ Department for Communities and Local Government April 2016

Confirmation that it would not exceed that height was only provided in the drawing contained in applicant's cost rebuttal statement received after the Council determined the application.

5. Therefore, on the basis of the information available to the Council at the time it determined the application, I find its behaviour was not unreasonable. As such, the Council's behaviour did not result in unnecessary or wasted expense, as described in the Planning Practice Guidance, and it has not been demonstrated that a full award of costs is not justified.

Simon Warder

INSPECTOR