



Costs Decision

Site visit made on 27 June 2019

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 July 2019

Costs application in relation to appeal ref. APP/C3620/X/18/3210564 24 Deepdene Gardens, Dorking RH4 2BH

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Qing Han for a full award of costs against Mole Valley District Council.
 - The appeal was against a refusal to grant a certificate of lawful use or development (certificate) for the "Erection of detached outbuilding/garage."
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Costs decision

1. The application for a full award of costs is refused.

Reasons for the costs decision

2. The Government's Planning Practice Guidance (the Guidance) advises that all parties in appeals are expected to behave reasonably to support an efficient and timely process and that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The application for costs has been considered on its merits in the light of the costs advice found in the Guidance, the costs correspondence, the appeal papers and all the relevant circumstances relating to the application for the certificate and the appeal. The parties are also referred to my appeal decision.
4. The application for an award of costs is said to be made on both a procedural basis and a substantive basis. The appellant has produced various extracts from the Guidance and highlighted some of the text in red and/or by underlining. However, I am afraid that no proper commentary is offered to fully cross-reference the specific facts of the case to the Guidance.
5. There is no procedural basis for an award of costs. The Council has not prolonged the proceedings by introducing a new reason for refusal. I am not aware of any information the Council has provided which has been shown to be manifestly inaccurate or untrue.
6. There is no substantive basis for an award of costs. In this regard, the Council has commented on the matters presented at page 5 of the appellant's "*Combined PLANNING APPEAL STATEMENT and FULL COSTS CLAIM*". The Council is correct to clarify that the application was determined under delegated authority (not by a Planning Committee contrary to the officer's recommendation) and that for an application made under section 192 of the 1990 Act, the Council was not required to undertake a planning balance

exercise with regard to the development plan, national policy or other material considerations. The Council objectively assessed the facts of the proposed development against the relevant General Permitted Development Order.

7. I addressed what I found to be the substantive limitation (in paragraph E.1 (c) of Class E) in my appeal decision. This was because: it concerns the fundamental factor relating to the location of the proposed building; it was the only limitation addressed within the main body of the appellant's appeal statement; and if a finding on this limitation suggested that the Council's decision was well founded, then it was superfluous to comment on the other limitations concerning height, as acknowledged by all the parties at the site visit. The Council's case relating to the location of the proposed building did not lack substance and its approach to the available facts did not match any of the types of behaviour listed in the Guidance that may give rise to a substantive award against a local planning authority. Rather, having regard to the point that the burden of proving relevant facts in this appeal rests on the appellant, his case was weakened because neither the supporting statement for the application nor the "*Combined PLANNING APPEAL STATEMENT and FULL COSTS CLAIM*" attempted to properly grapple with the matter of the original dwellinghouse.
8. As it is, this application for costs falls well short of demonstrating that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has occurred. An award of costs is not justified.

Andrew Dale

INSPECTOR