



Costs Decision

Site visit made on 27 August 2019

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Costs application in relation to appeal refs. APP/M3645/C/19/3221419, 3221420 & 3221421

Land at Buttons Mead, Tandridge Lane, Lingfield RH7 6LW

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Colin James Graves, Ms Sharon Delfina Graves and Ms Francesca Emily Bowden-Graves for a full award of costs against Tandridge District Council.
- The appeals were made against an enforcement notice alleging:
"Construction of a detached garage not in accordance with the plans approved in planning permission reference TA/2017/2017. The garage as built differs from the garage for which planning permission was granted in that the roof height has been increased by 1.95metres, 3 velux-style windows have been inserted, an external staircase has been erected and a door has been inserted leading from the staircase into the garage at first floor. This development is in the approximate position outlined and cross-hatched in black on Plan A."

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. This application for costs has been considered on its merits in the light of the costs advice found within the Guidance, the appeal papers, the written costs correspondence and all the relevant circumstances relating to the enforcement notice and to the appeals.
4. The application for an award of costs is procedural in nature, the gist of the appellants' case being that the Council should have waited for a decision on the householder appeal before serving an enforcement notice attacking the same development. This, it is said, caused the appellants to incur costs in appealing against the enforcement notice and a very significant amount of distress.
5. The power to issue an enforcement notice is discretionary and a matter for the local planning authority. The Council in this case were not formally or legally obliged to await the outcome of the householder appeal, although the email of

12 December 2018 from the Council's officer James Hitchcock to the appellants' agent does suggest the Council at least gave some consideration to putting the enforcement notice on hold.

6. Evidently, the Council was satisfied that there had been a breach of planning control and that it was expedient to issue an enforcement notice having already refused planning permission and taken into account the provisions of the development plan and other material considerations. For the avoidance of doubt, I note that the Council's reasons for issuing the enforcement notice did not lack substance. The Council's written statement was comprehensive being supported by various planning facts with reference being made to relevant development plan policies.
7. As the Council explains many local planning authorities serve enforcement notices immediately following a refusal to grant planning permission retrospectively and appeals against both are usually linked by the Planning Inspectorate. Whilst there appears to have been some slippage in the processing of the householder appeal, it was eventually linked to the appeals against the enforcement notice lodged by the appellants. Had the Council failed to issue an enforcement notice against development it had found to be unacceptable until after the householder appeal had been determined, this may not have maintained public confidence in the planning system because of the inevitable delay in enforcing planning control that would have come about.
8. I cannot identify any conflict with the Guidance. The costs for the appellants arising from their appeals against the enforcement notice are the normal costs involved when the right of appeal on ground (a) is exercised and I note that much of the written material for the householder appeal was understandably reused in the appeals against the enforcement notice. I realize that this may well have been a stressful time for the appellants but the starting point for that must stem from their reluctance to implement and fully accord with the planning permission that was granted in November 2017.
9. This application for costs falls short of demonstrating that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has occurred. An award of costs against the Council is not justified.

Andrew Dale

INSPECTOR