



Costs Decisions

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 applications in relation to appeal refs. APP/M3645/C/19/3221419, 3221420 & 3221421 & APP/M3645/D/18/3213930

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

- The applications are made under the Town and Country Planning Act 1990, sections 78, 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The applications are made by Tandridge District Council for a full award of costs against Mr Colin James Graves, Ms Sharon Delfina Graves and Ms Francesca Emily Bowden-Graves.
- The appeals were made against: (1) 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;* and (2) the refusal of planning permission for *Erection of detached triple bay garage with first floor accommodation and external staircase (Retrospective).*

Costs decisions

1. The applications for a full award of costs are refused.

Reasons for the costs decisions

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. These applications for costs have been considered on their 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, the planning application and the appeals.
4. The applications are substantive in nature, largely being based on the planning merits of the appeals and the actions of the appellants. The Guidance states that the right of appeal should be exercised in a reasonable manner and that an appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding.
5. The advice provided by officers during the processing of the householder planning application illustrates the subjective judgements which are often required in cases like this. For instance, the case officer may well have been

- prepared initially to accept a garage with a width of 12.838 m at a height of 4.5 m but the case officer's manager did not share that judgement.
6. That the appellants built a garage larger than that which received planning permission was done so at their own risk but they were entitled to submit a retrospective planning application and to lodge a subsequent appeal. Understandably, to protect their own interests they also lodged appeals against the enforcement notice. They felt that it had been issued prematurely and they wanted to provide certainty that the remedial steps it contained would not have to be carried out whilst the householder planning appeal was outstanding. I cannot fault the appellants for those actions, especially as there appears to have been some snags and delays during the processing of the householder planning appeal. The nub of the issue, insofar as the matter of costs is concerned, is whether the appeals had no reasonable prospect of succeeding.
 7. Assessing the reasons for issuing the enforcement notice and the refusal of planning permission required subjective planning judgments. My appeal decisions are particularly relevant here and can be referred to by the parties. It should be apparent to anyone reading them that this was far from an open-and-shut case. The appellants' written statements were comprehensive and did not lack substance. They were supported by various planning facts with reference being made to relevant development plan policies and the National Planning Policy Framework. It was reasonable for the appellants to have made a well-reasoned case that argued the opposite view to that reached by the Council. That is simply consistent with the objectives and principles of the appeal process, and attracts no criticism from me, even if ultimately I did not agree with points being made.
 8. These applications for costs fall 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 appellants on either of the appeals is not justified.

Andrew Dale

INSPECTOR