



Costs Decisions

Site visit made on 30 July 2019

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th November 2019

Costs application in relation to Appeal Ref: APP/A3655/D/19/3228869 4 Glebe Gardens, Byfleet, West Byfleet, KT14 7LD

- 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 and Mrs M Jones for a full award of costs against Woking Borough Council.
 - The appeal was against the refusal of planning permission for a double storey side extension.
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Decision

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

Reasons

2. Paragraph 30 of the government's Planning Practice Guidance ("the PPG") advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. This application for costs follows the refusal of planning permission by Woking Borough Council for a double storey side extension. Permission for the extension was originally granted under Ref: PLAN/2016/0950 and the extension constructed. However, the extension was not constructed in accordance with the approved plan showing the internal layout, thus breaching condition 02 of the permission. The subsequent application, the subject of the appeal to which this costs application relates, was to regularise the extension as constructed.
4. The applicant contends that, in summary, the Council failed to follow the correct enforcement and planning procedures; made vague, generalised or inaccurate assertions about the proposal's lawfulness and impact; acted contrary to or did not follow planning policies, planning law and case law; and forced the applicants to use the appeal process.
5. The Council was entitled to investigate this breach of planning control. The means by and manner in which this investigation was conducted is not a matter relevant to the appeal to which this costs application relates. The Council's invitation to submit an application to regularise the unauthorised works was a reasonable response. The Council was entitled to consider this application as being for the creation of an independent dwelling even though this was not the development for which planning permission was sought, and I do not consider that it behaved unreasonably in doing so.

6. Having decided that this would be the basis on which the application would be determined, the Council then properly assessed the development against the relevant development plan policies and reasonably concluded that the development would conflict with a number of those policies for specific reasons.
7. Even if the Council had considered the application as being for the retention of the extension as built as the applicants intended, or had an application for a non-material amendment been made, I consider it likely that the Council would have refused to grant planning permission for the extension as built as being contrary to Policy DM9 of the Council's Development Management Policies Development Plan Document (2016). This policy requires residential extensions to be designed in a way that renders them incapable of being occupied separately from the main dwelling. It would then have been for the applicant to decide whether or not to lodge an appeal.
8. Had the applicant built the extension in accordance with the approved plans, I accept that it would have been possible to make subsequent internal alterations without the need for a further grant of planning permission. However, this was not the sequence of events.
9. Accordingly, I do not consider that the Council has behaved unreasonably. Therefore, an award of costs is not justified.

Martin Small

INSPECTOR