
Costs Decision

Site visit made on 5 January 2021 by Alex O'Doherty LLB(Hons) MSc MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

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

Decision date: 2 March 2021

Costs application in relation to Appeal Ref: APP/Y3615/D/20/3258126 Hillrise, Orestan Lane, Effingham, Leatherhead KT24 5SN

- 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 Mrs N Moutih for a full award of costs against Guildford Borough Council.
 - The appeal was against the refusal of planning permission for a single storey rear extension and insertion of 2 roof lights.
-

Decision

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

Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the costs application.

Reasons for the Recommendation

3. The Planning Practice Guidance ('PPG') 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.
4. Policy P2 of the Guildford borough Local Plan: strategy and sites 2015 – 2034 (adopted 2019) ('Local Plan') differs from the Framework with respect to the definition of the 'original building'. Considering that the Local Plan was adopted after the publication of the February 2019 version of the Framework, and that the current definition of 'original building' has been present in the text of the Framework since 2012, and in the absence of evidence to indicate otherwise, I consider that the differences in the definition are intentional.
5. It is recognised that the Local Plan was drafted and the Inquiry held prior to the publication of February 2019 version of the Framework but the definition is contained within the adopted development plan and as such the Council were correct to have regard to it. This was also the approach that the Inspector took in appeal decision 3225122¹ and I consider that the differences highlighted between the planning appeal and 3225122 are of a factual nature and do not change how the policies should be interpreted. Although the appellant has referred to how the text of Policy P2 was formulated, as Policy P2 is an adopted

¹ APP/Y3615/D/19/3225122 (Willow Barn, Effingham Common, Effingham, Surrey, KT24 5JD)

policy, the Council were correct to apply the text as it was written. On this matter, the Council's behaviour was reasonable.

6. Based on the information before me, including the full planning history, the Council were correct to put forward figures relating to the bungalow of timber and asbestos construction which was present on site prior to 1977, as the 'original building'. The figure referred to in the 1995 planning permission related to a different (later) building, not to the original building as per Policy P2 of the Local Plan. Also, as the Council's analysis flowed from the correct baseline figure, their assessment was not flawed. Thus, I find that the Council were reasonable in their approach on both of these matters.
7. Considering the above, the Council were correct to have made their assessment against a building which no longer exists. Appeal decision 3135670² was issued before the adoption of the Local Plan and does not change my view on this matter. The Council acted reasonably on this matter.
8. Although the Officer's Report concludes that the proposal would conflict with Policy P2, in relation to matters of character and appearance the Report states that the proposal would comply with Policy P2. This appears to be a mistake, but it is minor and both the Report and the Council's Decision Notice are clear as to the Council's overall conclusion. Therefore, this does not amount to unreasonable behaviour.

Conclusion and Recommendation

9. I am satisfied that the Council acted in a reasonable manner. The applicant's costs associated with the appeal were therefore necessary and not wasted. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
10. I recommend that the application for an award of costs is refused.

Alex O'Doherty

APPEAL PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for an award of costs is refused.

RC Kirby

INSPECTOR

² APP/Y3615/D/15/3135670 (Paddock View, Orestan Lane, Effingham, Leatherhead, KT24 5SN)