The Planning Inspectorate

Costs Decision

Site visit made on 10 August 2021

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2021

Costs application in relation to Appeal Ref: APP/M3645/D/20/3264687
27 Court Road, Caterham, CR3 5RG

- 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 Don Hutchinson against Tandridge District Council.
- The appeal was made against the refusal of an application, Ref TA/2020/1793, which sought planning permission for the erection of a rear dormer and hip to gable side extension.

Decision

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

Reasons

2. Planning Practice Guidance (guidance) advises that, irrespective of the outcome of the appeal, costs may only 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.

3. The Appellant argues that there has indeed been unreasonable behaviour by the Council. In short it is put that the Council's reason for refusal was vague, generalised, and made inaccurate assertions about the proposal's impact. The Appellant considers this was unsupported by any objective analysis and furthermore that the decision was inconsistent with pre-application advice provided by the same case officer. The advice specifically being to apply for a centrally positioned dormer with sufficient spacing from the edge of the eaves. It is put that the Council did not properly explain why the differences between previous proposals and the appeal scheme resulted in unacceptable harm to the character and appearance of the area. Additionally, mention is made in the report of street scene, when the scheme would not be visible from there.

4. In summary, the Appellant feels that the reason for refusal simply sets out a series of vague points unsubstantiated by any objective analysis.

5. The Council says the refusal states that the dormer extension proposal by reason of its scale, bulk form and design would fail to respect the appearance of the existing building and as a result would result in significant harm to the character and appearance of the area. It makes the point that the relevant policies are clearly set out within the Councils reason for refusal. The Council says its grounds for refusal were not vague. In terms of comparison to previous proposals it says the changes did not override concerns; it has not

been inconsistent on this matter. On pre-application advice, Officers advised, generally, that the dormer extension should be set in from the side roof slopes and in determining the application the Council felt this had not been sufficiently achieved. In any event, the Council underlines that pre-application advice is advisory only and is not binding on the Council or its members.

6. The Council does acknowledge that the Plan Numbers were not included on the Decision Notice by oversight, however were provided at the end of the Officers Report. It makes the case that omission does not amount to unreasonable behaviour which would justify an award of costs.

7. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a full or, indeed, a partial, award of costs.

8. Ealing with the last point (para 6) first I would agree that an, albeit unfortunate, omission of Plan Numbers on a Decision Notice should not trigger a costs award taking all guidance into account.

9. I have judiciously appraised the Officer's Report and the Decision Notice along with all the points raised by both parties. I have to say that I found the report to be comprehensive, balanced and reasonably constructed. It seems to me that the scale and nature of the proposal has been fairly considered in all its components and context. This includes the matter of taking a consistent stance relative to previous outcomes.

10. The Decision Notice is clear and sets out unequivocally the concerns of the Council; the phrasing used has to be seen as applying to the specific development in the heading. The reason rightly refers to the applicable policies and clearly stems from the report. The report's slight error over reference to the street scene is correctly not repeated in the Decision Notice.

11. I appreciate an appeal process can be time and fee consuming. However the Council has given reasons for the judgement it reached and the decision notice is sufficiently lucid. The documented decision process enables me to determine that development plan matters had been sufficiently considered and impacts had been analysed.

12. On the matter of the overall decision, as it happens, I disagree with the conclusions reached by the Council. However I would nevertheless defend the Council's wording and assertions in the round as not being unsubstantiated or unreasonable and its actions throughout the process as not being irrational.

13. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

D Cramond

INSPECTOR