
Costs Decision

Site visit made on 29 November 2021

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st December 2021

Costs application in relation to Appeal Ref: APP/A3655/D/21/3275844 Deep Pool Farm, Deep Pool Lane, Chobham, Woking GU24 8AS

- 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 Woking Borough Council for a full award of costs against Mr Simon Howard.
 - The appeal was against the refusal of planning permission for the erection of a single-storey rear in-fill extension.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. An appellant may be vulnerable to costs being awarded if the appeal had no prospect of succeeding. The Guidance illustrates this can include situations where the proposal is clearly in conflict with the development plan and where no material considerations indicate that a decision should have been made otherwise.
3. The Council allege that the appeal scheme clearly represents inappropriate development, that would be fundamentally contrary to the development plan, and that the appeal therefore had no prospect of success.
4. However, policy DM13 of the Woking Development Management Plan, does not proffer a definitive position as to when an extension in the Green Belt would be deemed to be disproportionate. Rather, the companion commentary states that such judgements would be based on site specific characteristics. I recognise that this text also states that "the expectation is that to be acceptable, proposals will be within the range of 20-40% above the original volume of the building". Nevertheless, whilst providing a reasonable degree of clarity, this also illustrates that site specific matters may enable an addition, over 40%, to be proportionate additions.
5. Site specific matters influenced the outcome of the Council's decision to allow a previous in-fill extension on site, by very special circumstances, despite the dwelling having been substantially extended in the past. This illustrated the flexibility that can be applied in some circumstances. Consequently, the proposal did not represent a development that had no reasonable prospect of success.

6. For this reason, although I have not found in favour of the appellant in my main decision, the appellant has not behaved unreasonably by making the appeal.

B Plenty

INSPECTOR