
Costs Decision

Site visit made on 4 January 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2023

Costs application in relation to Appeal Ref: APP/M3645/D/21/3286781 Fidlers Cottage, Lower South Park, South Godstone RH9 8LF

- 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 & Mrs Hinson for a full award of costs against Tandridge District Council.
 - The appeal was against the refusal of planning permission for erection of a single storey infill extension.
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Decision

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

Reasons

2. Planning Practice 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 expense in the appeal process.
3. The costs application contends that the Council failed to consider a potential fallback position, citing lack of its explicit consideration in the Council's Officer Report. The implication is that the appeal could have been avoided, had the Council more clearly compared the proposed development with the fallback position.
4. The fallback position is based on two proposed extensions, detailed in an application for a Certificate of Lawfulness (ref 2021/985) and a separate application for planning permission (ref TA/2020/1410). The Council's Officer Report identifies both the above applications in the planning history of the property, thus demonstrating an awareness of both extant approvals. However, it does not go on to consider explicitly how the approved extensions would relate to the proposed development, which I accept would have provided greater clarity on this point.
5. For reasons set out in the appeal decision, I have concluded that the fallback position should be attributed limited weight, based on both the limited prospects of its implementation and its relative merits compared to the appeal proposal. I have further concluded that neither the fallback position nor any other considerations are sufficient to outweigh the substantial weight given to the harm to the Green Belt by reason of inappropriateness. On that basis, I have dismissed the appeal.

6. While my attention has been drawn to a costs decision dating from June 2022¹, in which lack of consideration of a fallback position was pertinent to the award of costs, the circumstances of that case were clearly different. In particular, the Inspector concluded that further consideration of the fallback position would have resulted in a different outcome. That is not the case here.
7. In this case, there is no clear evidence that more detailed discussion of the fallback position would have changed the outcome of the application. The information in the Officer Report was sufficient to support the recommendation made. I therefore find that no unreasonable behaviour was exhibited by the Council in this respect and there is furthermore no evidence that the appeal could have been avoided had the Council acted differently.

Conclusion

8. For the reasons set out above, I do not find that unreasonable behaviour resulting in unnecessary or wasted expense has been demonstrated. Therefore, the application for costs is refused.

¹ Appeal ref APP/M1710/W/21/3282948