

Costs Decision

Site visit made on 21 March 2023

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 APRIL 2023

Appeal Ref: APP/P3610/W/22/3304442

45 Edenfield Gardens, Worcester Park, Surrey KT4 7DU

- 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 Epsom and Ewell Borough Council, for a full award of costs against Dr Tharumalingam Gowripalann.
 - The appeal was against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the erection of a single storey rear extension with a mono pitched roof. With the following dimensions. Extends beyond the rear wall of the original dwellinghouse by 4.475 metres, the maximum height of the enlarged part of the dwellinghouse will be 2.45 metres, the height of the eaves of the enlarged part of the dwellinghouse will be 3.965metres.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that irrespective of the outcome of an 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 Councils' application for costs is on the basis that the Dr Tharumalingam Gowripalann acted unreasonably by:
 - failing to forward to the Council the information submitted to the Planning Inspectorate, including their Statement of Case, within the deadlines; and
 - requiring the Council to use valuable resources to defend an appeal made on unreasonable grounds.
4. It is readily apparent that the information required to support the appellants case, which should have been copied to the Council by the appellant, was forwarded to the Council by the Inspectorate. As a result, the Council received the documentation outside the normal deadlines. This is not disputed by the appellant.
5. I can appreciate that the delay in obtaining the information, and having to contact the Inspectorate to secure it, would have been frustrating to the

Council. That said, the Council has not provided any substantive evidence to demonstrate how receiving the appeal documents via a different route, and any associated delay in receiving them, had caused them unnecessary costs in terms of time or resources.

6. The Council indicate that the appellant used the services of a planning professional in the submission of his appeal and considers the grounds of appeal to be unreasonable. However, I have no evidence before me to indicate that the agent for the application, or the subsequent appeal, has a professional qualification in town planning or a related subject that would make them familiar with prior approval or appeal procedures.
7. The officers report and decision notice set out why the application for prior approval was refused. The Council further clarified their interpretation of the legislation in their appeal statement and highlighted the fact that precedents do not form part of the considerations for prior approval applications. The Council's explanation has not been disputed by the appellant. The additional clarification provided in the appeal statement, and the Council's time and expense devoted to it, were a necessary part of the process. Therefore, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated.

Decision

8. I have considered all the submitted evidence and conclude that the application for an award of costs should be refused.

John Gunn

INSPECTOR