



Costs Decision

Site visit made on 5 May 2023

by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2023

Costs application in relation to Appeal Ref: APP/M3645/D/21/3287239

1 Carewell Cottages, St. Piers Lane, Lingfield RH7 6PN

- 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 T Grimley for a full award of costs against Tandridge District Council.
 - The appeal was against the refusal of planning permission for two-storey side and single storey rear extensions.
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Decision

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

Preliminary matter

2. The Council was given the opportunity to respond to the application for costs, but no comments were received.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, 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. The PPG sets out types of behaviour which may give rise to an award of costs against a local planning authority, including: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. In correspondence with a local Councillor during the application process, a Council officer advised that they had concerns about the proposal on both character and Green Belt grounds. When asked what percentage volume increase would be acceptable, they set out a 'generic rule' of 40% increase.
6. The applicant has sought to demonstrate that their proposal falls below the 40% increase, whereas the Council considers it exceeds that. Both the Council and applicant have provided figures for the volume of the existing dwelling. The applicant sets out these details on a coloured plan and the Council gives a final figure with limited details of its calculations. The differences between the respective figures suggests that the Council did not agree with the figures on the applicant's plan.

7. The key difference between the parties in respect of volume increase relates to whether certain features of the existing building were part of the original building at the relevant date. They rely on different information in relation to the existing bathroom. The Council had regard to other plans from the neighbouring property, whereas the applicant refers to the layout and physical features of the building and a photograph. I have not had sight of the plans the Council refers to and therefore have reached a conclusion based on the evidence before me. It was not however unreasonable for the Council to have regard to other information available to it when assessing the bathroom.
8. The applicant highlights that the Council has not provided any evidence to support its view that the bunker and shed are not original. However, I also only have generalised statements from the applicant on this matter, with no substantive evidence from either party to demonstrate their age. Consequently, like the Inspectors before me, I have not therefore been able to reach a firm conclusion as to whether these features were part of the original building. On that basis, it was not unreasonable for the Council to take the view that it did, although it would have been helpful if it had set out the reasons for its conclusions in more detail, and mentioned the arguments put to it.
9. The committee report did not set out the applicant's evidence in respect of this part of the building, which would have been helpful. Nonetheless, the application documents would have been publicly available to the Committee members. Furthermore, the local Councillor who requested that the application be brought to the Planning Committee had visited the site and was aware of the applicant's case in this respect.
10. The requirements for Committee Members to visit an application site are a matter for individual Councils to determine. There is no evidence before me to suggest that the applicant was not able to put their views to the Planning Committee or that any Committee procedures were not followed. Therefore, while I have not been provided with the minutes of the meeting, it has not been demonstrated that the Planning Committee was not aware of the applicant's evidence when it determined the application.
11. Consequently, while it could have been more clearly articulated in the committee report, it has not been demonstrated that the Council did not take into account the applicant's evidence in relation to the 'original building', or that the Council made unreasonably generalised or inaccurate assertions on this matter.
12. The committee report assesses the proposal against the relevant development plan policies and sets out how the conclusions were reached. Reference is made to previous applications and appeal decisions, however it is not unreasonable to refer back to previous decisions where they are relevant, as the applicant has in their appeal submissions.
13. The report sets out its assessment of whether the proposal was inappropriate development in the Green Belt. This did not rely solely on mathematical calculations of the volumetric increase proposed, but also included the visual impact of the proposal and its impact on the openness of the Green Belt, identifying harm to the Green Belt in these respects as well. This was in line with the pragmatic approach set out in the supporting text to Policy DP13 of the Tandridge Local Plan Part 2: Detailed Policies 2014 – 2019, which requires several factors to be taken into account when assessing whether additions are

disproportionate. The Council therefore carried out an objective analysis of the scheme against various different factors before reaching its conclusion that the proposal would result in both mathematically and visually disproportionate additions. Consequently, I find that the Council has adequately substantiated its case in the appeal.

14. Even if the Council had agreed with the applicant's volume calculations, the visual and openness impacts on the Green Belt and the harm identified to the character and appearance of the area may still have led to a refusal and an appeal. Indeed, I have reached similar conclusions even if the bathroom, shed and coal bunker are considered as part of the original building. Accordingly, this is not a case where the development should clearly have been permitted having regard to local and national policy and other material considerations.
15. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

L McKay

INSPECTOR