



Costs Decision

Site visit made on 26 September 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2023

Costs application in relation to Appeal Ref: APP/D3640/D/23/3314902 Whitethorn, Sandpit Hall Road, Chobham, Woking, Surrey GU24 8HA

- 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 Jonathan Mackay against the decision of Surrey Heath Borough Council.
 - The appeal was against the refusal of a planning application for a single storey extension and replacement windows.
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Decision

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

Reasons

2. The National Planning Practice Guidance (NPPG) 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. Unreasonable behaviour can be procedural, or it can relate to the substance of the matters under consideration as part of the appeal.
3. Paragraph 049¹ of the NPPG highlights the examples of unreasonable behaviour by Local Planning Authorities where costs can be awarded. The applicant has submitted that the Council has acted unreasonably in that it has failed to substantiate its reasons for refusal and made vague, generalised, or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis. The applicant further contends that the Council failed to apply well-established case law, which resulted in unnecessary and wasted expense in having to make the appeal.
4. In this case, the Council refused the appeal scheme for a single reason, which related to disproportionate additions above the size of the original dwelling which would have resulted in harm to the openness of the Green Belt. Whilst it is regrettable that the Council did not reference any case law, and erroneously calculated the floor space, I am satisfied that the Council has shown that it was able to substantiate their reason for refusal. In reaching their decision the Council did consider the effects of the development in respect of the original property and its previous extensions granted, concluding that the scheme was disproportionate.
5. Whilst I have come to a different conclusion to the Council on this matter, the delegated report provides clear, reasoned analysis and I conclude there is no evidence that the Council behaved unreasonably in respect to this issue.

¹ Appeals Paragraph: 049 Reference ID: 16-049-20140306

Consequently, as I am unable to conclude that the Council behaved unreasonably, the costs incurred by the applicant in pursuing the appeal, were the normal costs arising when the right of appeal is exercised.

Conclusion

6. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the NPPG, has not been demonstrated and that no award of costs is justified.

Robert Naylor

INSPECTOR