
Costs Decision

Site visit made on 9 April 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 April 2024

Costs application in relation to Appeal Ref: APP/Y3615/X/22/3309147 Little Romanys, Lawbrook Lane, Surrey, Peaslake GU5 9QW

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Taylor for a full award of costs against Guildford Borough Council.
 - The appeal was against the refusal of the Council for a certificate of lawful use or development for the erection of a single storey rear extension.
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Decision

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

Reasons

2. 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. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The PPG confirms that the aim of the costs regime is, amongst other things, to encourage all involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case.
4. The applicants claim that the Council acted unreasonably and inconsistently, facilitated by a misunderstanding of the permitted development legislation, with regard to the principal elevation of the 'original' property. It is further stated that the Council failed to engage with the applicants, failed grapple with the planning history of the site, and also did not undertake a site visit. These factors contributed to their misunderstanding of what was the original principal elevation of the property. Therefore, the applicants consider that the appeal should have been avoided and has resulted in them incurring unnecessary and wasted expense.
5. The interpretation of the legislation on permitted development, as to what constitutes the original 'principal elevation' is a matter of planning judgement based on the facts of the case. It will be seen from my decision that on the balance of probability, I agree with the applicants that the original principal elevation is the south elevation. Nevertheless, the Council did have regard to

the planning history for the site which is mentioned in pages 1 and 2 of their report.

6. Page 3 of the officer's report also refers to the earliest planning permission¹ in an attempt to understand the form of original dwelling. This paragraph also considers the architectural features of the dwelling which include the gable end, and that the western elevation fronts the highway and is also the elevation approached when entering the property. To aid the Council's deliberations, the Officer also consulted the Government's Technical Guidance on permitted development. Therefore, the Council's reasoning is not unsubstantiated, and it was not unreasonable for them to defend this appeal.
7. Furthermore, given that the LDC application relates purely on the basis of the legal interpretation of the facts, and the planning merits of the proposal are of no relevance, it was not unreasonable for the Council to undertake a desk-based assessment only.
8. As such, no unreasonable behaviour has occurred, and the applicants has not been put to any unnecessary or wasted expense dealing with this appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. As such, the applicants claim for costs fails.

R Satheesan

INSPECTOR

¹ Council ref: GU/R/1254.