
Costs Decision

Site visit made on 22 August 2024

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2024

Costs application in relation to Appeal Ref: APP/M3645/D/24/3347320 13 Matlock Road, Caterham CR3 5HP

- 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 Gould for a full award of costs against Tandridge District Council.
 - The appeal was against the refusal of planning permission for a rear extension.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance 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.
3. The appellant submits that the Council has failed to produce evidence to substantiate each reason for refusal on appeal; given vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and prevented the development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. I have noted the recommendation of the Council's officers which was for approval. The Committee is not duty bound to follow the advice of its officers if its contrary decision is made on planning grounds and clear evidence is provided to substantiate that reasoning. Two reasons for refusal were given by the Committee relating to character and appearance and the living conditions of neighbouring residents. In my accompanying decision, I explain why I find no basis to these objections.
5. No robust evidence has been offered by the Authority within the Committee minutes to justify its decision. Nevertheless, even if there were explanation, I find it unlikely that any arguments would have vindicated the reason for refusal in respect of character and appearance. Quite simply, the scheme is wholly acceptable on this ground.
6. In respect of living conditions, the Council has not specified in the reason for refusal exactly how the development would cause harm to the residents of neighbouring houses, and therefore I have examined the issue in terms of light, privacy and overbearing impacts.

7. This is a very finely balanced matter, but I am prepared to give the Committee the benefit of the doubt. The change in land levels and the relatively close relationship between built form meant that there were sufficient concerns following the site visit to substantiate the decision in this regard.
8. In summary therefore, whilst it is reasonable for the Council to apply judgement this must be supported by proper analysis. Instead, assertions were made about the effects of the appeal scheme in terms of character and appearance that could not be supported. This has led the applicants to incur unnecessary and wasted expense dealing with this matter on appeal. As a result, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has been demonstrated and a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Tandridge District Council shall pay to Mr & Mrs Richard & Janet Gould the costs of the appeal proceedings described in the heading of this decision but limited to those costs incurred in responding to Reason 1 of the Authority's decision only. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Hall

INSPECTOR