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## Costs Decision

Site visit made on 14 January 2025

**by Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 February 2025

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**Costs application in relation to Appeal Ref: APP/C3620/D/24/3347083**

**Abinger Hall, Guildford Road, Abinger Hammer, Surrey RH5 6QA**

- 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 and Mrs Craig and Trudie Smyth against the decision of Mole Valley District Council.
  - The appeal was against the refusal of planning permission for the construction of a glazed roof over the existing fives court and link to the aviary to provide a recreational/exercise space.
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### Decision

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

### Reasons

2. 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.
3. Paragraph 049<sup>1</sup> of the PPG 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 they have failed to adhere to deadlines; prevented or delayed development which should clearly have been permitted; and made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. Both parties agree the decision was issued in excess of the 8-week target date, with the applicant indicating that the Council failed to provide a reasonable explanation for the delay. The Council have offered an apology for the delay, and further highlight that contact with the applicant was made during the consideration of the proposal. The Council cite a high workload, and multiple applications submitted at the appeal site which contributed to the Council not determining the application within the required timeframes.
5. Based on the very limited details provided, I would concur that the Council did not act in a communicative, timely or pro-active manner as advised by the PPG. This could constitute unreasonable behaviour. However, for a costs application to be successful, unreasonable behaviour must also result in unnecessary costs being incurred by the successful party.
6. Whilst the Council did fail to determine the scheme in a timely fashion, they have clearly set out within their decision notice and the officers' report the reasoning why they resolved to refuse the scheme. In this case, the Council considered the

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<sup>1</sup> Paragraph: 049 Reference ID: 16-049-20140306

proposal resulted in a disproportionate addition over and above the size of the original building, and thus would have been inappropriate development in the Green Belt.

7. The reason for refusal is complete, precise, specific and relevant to the application. The Council clearly referenced the relevant policies of the Local Plan and the National Planning Policy Framework (the Framework) which formed the Councils development plan at the time of its decision. I find in reaching a decision the Council did consider the proposal against the relevant development plan policies and in respect to all appropriate matters reached a conclusion that was objective and reasoned in its analysis. As such I am satisfied that the Council has shown that it was able to substantiate their reason for refusal, which resulted in the subsequent appeal. Indeed, the reason for refusal formed the main issues in respect to my appeal decision, despite me reaching an alternative conclusion to the Council.
8. Whilst I have reached a different view to the Council on these matters, this matter is one of judgement for the decision maker. It follows that I am satisfied that the Council advanced a case, in the form of the officers' report and decision notice, that in its opinion, indicated that the proposal was contrary to the development plan and the Framework. Therefore, I cannot conclude that the Council had behaved unreasonably, and the applicant was not, as a consequence, put to unnecessary or wasted expense.

### **Conclusion**

9. As parties in planning appeals and other planning proceedings normally meet their own expenses, I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated and that no award of costs is justified.

*Robert Naylor*

INSPECTOR