



Costs Decision

Site visit made on 20 February 2025

by **John D Allan BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

Costs application in relation to Appeal Ref: APP/D3640/D/24/3353232

122A Hurstwood Manor, Upper Chobham Road, Camberley, Surrey, GU15 1EJ

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Tal Belnik for a full award of costs against Surrey Heath Borough Council.
 - The appeal was against the refusal of planning permission for development described as '*Construction of 2 storey side extension, pool house and car port*'.
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Decision

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

Background

2. The planning application (the second application to which the appeal and costs application relate) was a resubmission following the refusal of a first application (Ref 23/1281/FFU) for development described as '*Erection of 3 storey side/rear extension with roof accommodation and swimming pool to create an annexe to existing host dwelling and erection of new car port to front of the property following demolition to existing side garage*'. It sought to address the two reasons for refusal that were given on the first application's decision notice, which raised issues relating to the effect of the proposal upon the character and appearance of the dwelling and wider area, and upon nearby protected trees.
3. The Council's handling of the second application was subject to a Stage 2 Complaint by the applicant. This was addressed by the Interim Chief Executive of Surrey Heath Borough Council in an email response to the applicant dated 2 October 2024 as part of the Council's Complaints Procedure.

Reasons

4. 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.
5. The applicant's claim relates to the Council's procedural handling of the planning application, part of which in turn, they argue, affected the substance of the matter under appeal.
6. The planning application form described the proposal as '*Construction of 2 storey side extension, pool house and car port*'. The description given by the Council used

in the officer's report and on the decision notice read *'Erection of 3 storey side/rear extension with roof accommodation and swimming pool to create an annexe to existing host dwelling and erection of new car port to front of the property following demolition to existing side garage'*.

7. The alternative description of the development used by the Council was not agreed with the applicant. The Council's response to the Stage 2 Complaint accepts that this unilateral change breached their own protocol.
8. Although the front elevation of the dwelling is two-storey, the dwelling is split level and due to the topography of the site the rear façade is exposed as a three-storey elevation. The side extension was proposed to follow suit. The pool house was proposed as a physical extension projecting to the rear of the dwelling, attached by an internal walkway. Reference to an annexe was taken from the address as it was stated on the application form and was further informed by the *Planning Statement* dated 6 June 2024 which accompanied the application and which stated, *'The proposal will create 4 bedroom annex with associated landscaping to front and rear'*. With all of this in mind, I do not find the description that was given to be necessarily inaccurate or misleading.
9. Notwithstanding the choice of words that were used, from reading the officer's report it is apparent that analysis of the application was undertaken with a clear understanding of the proposal as it was shown on the submitted plans. In addition, no third-party comments were received following the Council's public consultation exercise and therefore no opinions were expressed that were solely reliant upon the Council's description. I am unable to identify how the applicant was disadvantaged by the Council's actions in this regard.
10. It is evident that the Council's communication with the applicant during the course of the application was poor and lacking. This too is acknowledged by the Stage 2 Complaint response. However, the first application raised no highway related objection and highway related matters were not included as a reason for the refusal of the second application. Consequently, they were not addressed by issues raised in the appeal. Whilst there was doubt cast over the potential impact upon trees by the decision on the first application, the applicant was met by the Council's Arboricultural Officer on site during the life of the second application when it was confirmed from his perspective that there would be no further requirements. It is apparent that the applicant struggled to get confirmation from the planning officer that this would ultimately be the Council's position, but despite the lack of dialogue and delayed response, tree related matters were not included as a reason for the refusal of planning permission and were not addressed by any issues that were raised in the appeal.
11. There are elements of the Council's processes where their behaviour fell below acceptable standards and protocols. But ultimately, their decision was based on sound planning principles including consideration of adopted design guidance and support by relevant policies of the development plan. Moreover, following my own conclusions based upon the planning merits of the case overall, their decision did not lead to an appeal that could necessarily have been avoided.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance,

either in terms of the Council's procedural handling of the case or with respect to consideration of the substantive issues, has not been demonstrated.

John D Allan

INSPECTOR