



Costs Decision

Site visit made on 16 July 2025

by **G Ellis BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 August 2025

Costs application in relation to Appeal Ref: APP/A3655/D/25/3363344

Hoe House Prey Heath Road, Woking, GU22 0RW

- 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 and Mrs Sanjay & Jasma Patel for a full award of costs against Woking Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a two-storey front extension and a single-storey rear infill extension. Rear dormer. Alterations to the roof and fenestration.
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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.
3. The applicant claims that the Council failed to adequately explain their reasons for the decision, with particular regard to the fallback, and did not apply the correct approach in relation to the Green Belt and the fallback.
4. It was common ground that the proposal would be inappropriate development within the Green Belt, and therefore, the main consideration was whether the other considerations amounted to Very Special Circumstances to allow the proposal. The Council found that they did not. Part of the reasoning was that the fallback is not more harmful. The rationale for the Council's finding in relation to the comparison between the proposal and the fallback is unclear and somewhat confusing, given that they confirm that the fallback would result in a greater increase in volume, floor area and footprint.
5. No further explanation for this assessment is provided. However, the officer assessment goes on to acknowledge that the proposed development would be 'better', albeit not substantially so. Reading the officer report as a whole therefore it appears that this confusion can be explained by a simple typographic error within the wording in the officer's report, as quoted by the applicant. In this regard, the 'fallback position' appears to have been mistakenly referenced instead of the 'proposed development'. Either way, the Council's overall finding that the proposal is not substantially better in Green Belt terms than the fallback and doubts regarding its implementation remained valid.

6. The officer's report, which supports the decision, includes a specific section relating to Very Special Circumstances, and refers to established caselaw and raises a number of concerns relating to the likelihood of the fallback being implemented. In this section, they also specifically reference and acknowledge the front extension and that work had commenced.
7. Whether a fallback is a real prospect and the weight to be attributed is a matter of judgment. Each proposal is to be considered on the specific details of that case. While supporting the fallback position, the Lawful Development Certificates in this case were issued 10 years ago, and a matter for the decision maker to consider is whether there is a more than theoretical possibility of that development taking place. Whilst I have come to a different view on some of the issues, it does not imply that the Council's findings were flawed or that they should have given the fallback more weight. The PPG is clear that it is for the decision maker to determine the weight to be given to the material considerations in each case.
8. I can nonetheless understand that the decision may have led to some confusion and frustration for the applicant. However, while further clarity in relation to some of the issues would have been beneficial, this would not have changed the outcome. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

G Ellis

INSPECTOR