

Costs Decision

Site visit made on 23 February 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 April 2017

Costs application in relation to Appeal Ref: APP/Y3940/W/16/3164119 'Sunnyside', 18 Elley Green, Neston, Corsham, Wilts SN13 9TX

- 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 Ms Paula McHenry for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for construction of dwelling house.
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Decision

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

Procedural Matter

2. I have taken into account the Government's Planning Practice Guidance (PPG), issued on 6 March 2014, in reaching my decision.

Reasons

3. The PPG advises that, irrespective of the outcome of the appeal, costs may only 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.
 4. The appellant claims that the Council acted unreasonably in refusing planning permission on the basis that it made vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis; failed to produce evidence to substantiate the reason for refusal on appeal; and has not determined similar cases in a consistent manner.
 5. The first issue raised by the appellant relates to inconsistency of decision making in light of planning permission Ref 16/04166/FUL relating to No 18 for extensions and alterations to the bungalow to form a two-storey dwelling. The second issue concerns the claim that the Council failed to have regard to the lack of uniformity and diverse streetscape of Elley Green and that other properties have a similar separation distance between dwellings. It is claimed that the Council failed to objectively analyse the character and streetscape of Elley Green and took a decision contrary to the professional opinion of the Case Officer.
 6. Thirdly, it is claimed that, in respect of the impact on the amenities of neighbouring residents, the Council's position is unfounded, entirely
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unsubstantiated and again contrary to the opinion of the Case Officer. It is highlighted that the separation distance between No 20 and the appeal site boundary is one of the most generous found along Elley Green, which would remain unaltered and a significant mitigating factor with respect to any potential unacceptable impact on amenity. It is also highlighted that amended plans had been submitted to address concerns of overlooking.

7. Notwithstanding my conclusions on the appeal proposal, the circumstances relating to adding a detached dwelling alongside the existing extended dwelling, albeit of complementary design and appearance, are different to those comprising extensions in terms of the pattern of development. Furthermore, whilst there are existing dwellings in the vicinity in close proximity to each other, their circumstances in terms of the immediate context of their surroundings are not the same as for the appeal site, including in respect of its relationship with No 20. Additionally, in respect of residential amenity, whilst amended plans had been submitted, the relationship between the appeal site and No 20 is fairly unique in terms of the latter being set well back and at a significantly lower level.
8. The Planning Committee are entitled to come to a decision on an application, having regard to the relevant policies of the development plan, that is contrary to the recommendation of its officers. In this case, in light of the particular circumstances of the site and its surroundings, the Council made the judgement that the proposal would be unacceptable, reasonably considering it on its own merits. Importantly, I am satisfied that its reason for refusal was clearly set out in the decision notice, based on relevant adopted development plan policy. The reason for refusal is also adequately explained in the Council's appeal Statement of Case.
9. In conclusion, for the above reasons, I find that the Council did not behave unreasonably in determining the application and that, therefore, the applicant's costs in pursuing the appeal were not unnecessarily incurred or wasted. For this reason, and having regard to all other matters raised, neither a full or partial award of costs is justified.

Andrew Dawe

INSPECTOR