



Costs Decision

Site visit made on 11 February 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2020

Costs application in relation to Appeal Ref: APP/R3650/D/19/3238885 Stillwaters, Thursley Road, Churt GU10 2LQ

- 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 D Collier and Dr S Osborne for a full award of costs against Waverley Borough Council.
 - The appeal was against the refusal of planning permission for the erection of an extension and alterations.
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Decision

1. The application for costs is refused.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably where this has directly caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant submits that the Council's refusal of planning permission was a misdirection as it was based on incorrect figures due to a misreading of the plans. This error exaggerated the size of the proposed extension and led the Council to give insufficient weight to the appellant's fallback position¹. This may have been the cause for the Council's decision to refuse planning permission, leading to an unnecessary and costly appeal.
4. The Council has accepted that it used incorrect figures when justifying its decision within its officer report. To my mind, this was a clear error and a legitimate source of concern for the applicant. This concern would have been compounded by the Council's failure to acknowledge if or not a site visit took place, and its delay in responding to emails.
5. However, the Council maintains that it would have concluded the proposed extension to be inappropriate development in any event. Given that this was the conclusion reached by the Council regarding an identical extension in 2017², on the basis of correct measurements, this is a logical contention.
6. The error also had the potential to prejudice the Council's judgment as to the weight attributable to the fallback position. However, it is clear from the officer report that size was not the only factor in the Council's reasoning, with regard also had to siting. Notwithstanding the error in measurement, I find the

¹ Certificate of Lawfulness of Proposed Use or Development Ref WA/2019/0386

² Ref WA/2017/0945

Council's assessment of the fallback position to be adequate, and the weight attributed to it was ultimately consistent with my own assessment.

7. As such, whilst I acknowledge the applicant's reasonable concerns, there is no clear evidence that the Council's error substantively influenced its decision to refuse planning permission, to the extent that it caused the appeal.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Matthew Jones

INSPECTOR