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## Costs Decision

Site visit made on 28 July 2020

**by M Allen BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 August 2020**

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**Costs application in relation to Appeal Ref: APP/C1625/D/20/3252920  
The Wad, Damery Lane, Woodford, Berkeley, Gloucestershire GL13 9JR**

- 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 Mrs S. Cullen Bond for a full award of costs against Stroud District Council.
  - The appeal was against the refusal of planning permission for the erection of single storey annexe.
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### Decision

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

### Reasons

2. 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.
3. The application for costs relies on substantive matters, in that it is contended that the Council should have approved the scheme in the first instance which would have prevented the need for an appeal. More specifically, the applicant contends that the Council failed to have due regard to the fallback position of it being possible to erect a building under permitted development.
4. I accept that within the Council's Case Officer's Review, there is no consideration of any possible fallback position. However, I have no evidence before me to demonstrate that a viable fallback position was presented to the Council at the time of the planning application. As such, I do not consider that the Council was unreasonable in determining the application on the basis of the information that was before them.
5. In any event, I have considered the matter of the fallback position when making my decision. Whilst the existence of a fallback is a material consideration in this case, the weight to be attached to that fallback is a matter for the decision-maker. I have found that any scheme that may be possible under permitted development would not result in the level of harm that the proposed scheme would. As such, it is not of sufficient weight to justify allowing the appeal.
6. On this basis, even if details of a fallback position that was achievable under permitted development were before the Council at the time that it made its decision, I am not convinced that it would have resulted in it granting planning

- permission for the development. In this light, the appeal would not have been avoided.
7. There is also reference to the conduct of the Council in considering enforcement action at the site, at the same time that the appeal was submitted. However, discussions in relation to that enforcement action are separate matters from the appeal that is before me. I do not consider that the Council has acted unreasonably during the appeal process and I consider that the Council's case has been set out sufficiently in its Case Officer's Review.
  8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*Martin Allen*

INSPECTOR