
Costs Decision

Site visit made on 16 March 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2021

Costs application in relation to Appeal Ref: APP/Y3940/W/20/3264910 Ashley Wood, High Street, Kingsdown SN13 8BH

- 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 and Mrs Jon Maddicott for a full award of costs against Wiltshire Council.
 - The appeal was against a condition of permission issued by the Council in the notice of their decision relating to planning permission for proposed Juliet balcony to first floor of extension currently under construction in accordance with 19/00360/FUL.
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Decision

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

Reasons

2. The appellant submits that the Council acted unreasonably in that it did not adequately assess the proposal through a site visit or provide sufficient justification or reasoning for imposing the condition in dispute. Moreover, it also failed to adequately take into account the “fall-back” position established by the previous approval and the examples of precedent submitted with the application.
3. Planning Practice Guidance (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 expense in the appeal process.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal’s impact which are unsupported by any objective analysis.
5. The Council’s officer’s report has clearly referred to the differences between the previously approved window and the proposed amendment in terms of the extent of the glazing and the effect this would have on neighbouring privacy. There is also recognition of the separation distances between the appeal dwelling and the neighbouring dwelling at Woodland Manor. These factors lead them to conclude that there would be harm incurred by overlooking and the means of addressing this would be through condition 4. They have also concluded against the development plan and provided a reason for the condition. Even though I have come to a different decision in the appeal, the officer’s report is nevertheless clear in its reasoning and provides sufficient information to substantiate, in their judgement, the harm to neighbouring

privacy and why the condition is necessary. Therefore, I consider that the Council has not behaved unreasonably in this respect.

6. Although the Council did not carry out a site visit, they have referred to a number of sources of information that informed their assessment, including the submitted drawings, photographs and the planning officer's knowledge of the area. This would have provided adequate means for evaluating the proposal and its effect on neighbouring privacy, given the ongoing Covid-19 situation. Whilst I note the applicant's frustration regarding the lack of a site visit carried out by the Council, I do not consider it was unreasonable in the approach it took.
7. From the evidence before me it is clear that the Council determined the application on its individual merits. Whilst I note the appellant's view that there are similar cases of overlooking in the locality, those examples listed are not directly comparable to the appeal proposal given the differences in terms of land level, orientation and window configuration. Consequently, I find no unreasonable behaviour by the Council in disregarding those examples.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

RE Jones

INSPECTOR