
Costs Decision

Site visit made on 18 May 2021

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2021

Costs application in relation to Appeal Ref: APP/W1850/D/21/3268932 28 Mount Crescent, Hereford HR1 1NQ

- 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 Miss Elisabeth Laughland for a full award of costs against Herefordshire Council.
 - The appeal was against the refusal of planning permission for proposed extension and alterations.
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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 applicant states that the Council were wrong in defining the kitchen as a habitable room when planning guidance suggests otherwise. The assessment of light refers to a dining room which has its own unaffected window. There was also no consideration of aspect to the shadowing impact. The visual impact was overstated, and the officers did not visit the site and did not appreciate the context.
4. The Council asserts that the kitchen would be a well used room and does provide secondary light to the dining room. The window would be subject to overshadowing/overbearing impacts. The disagreement is about the significance of living conditions not the Council's approach. The case officer's report assesses the character of the area and explains the impact.
5. Whilst the kitchen is not a habitable room it is important to the functioning of the house wherein the occupants would spend time. It should not therefore be wholly disregarded and has some contribution to the living standards of the dwelling. As I found in the main decision there would be impact on this window, albeit limited, nonetheless it was a valid concern of the Council.
6. The Council's committee report begins by fairly summarising the character of the area before describing the proposal and provides extract drawings and photographs. The concern about visual impact was based on that context.

7. The committee report gives the policy background and the relevant policies in regard to living standards and design were explained: the Council applied the criteria in the Development Plan policies and came to a view. Indeed, the National Planning Policy Framework and the National Design Guide, promote design and set significant criteria for any proposal to reach, and the impetus is clear.
8. The decision notice uses precise wording to explain the various impacts. Thus, decision was therefore clear and understandable.
9. The character of the area and the proposal's impact on the area is a matter of judgement and not a precise science, the Council were entitled to come to their view. Bearing in mind the prominence of the site in the street, the concern was warranted.

Conclusion

10. For the above reasons I conclude that the Council has not acted unreasonably, and that the applicant has not been put to wasted time and expense in pursuing the appeal. Therefore, an award of costs as described in the Planning Practice Guidance is not justified.

John Longmuir

INSPECTOR