
Costs Decision

Site visit made on 15 February 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 February 2022

Appeal Ref: APP/Y3940/W/21/3279239

Sundawn, Chapel Hill, Lacock SN15 2LA

- 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 Mark and Elisabeth Johns for an award of costs against Wiltshire Council.
 - The appeal was against a refusal of the local planning authority to grant planning permission for development described as a semi-underground extension and creation of a garden-room in extension of an existing garage.
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Decision

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

Procedural Matters

2. The application subject of the above appeal was made in association with an application for listed building consent. Both were refused, and both are considered within my main decision. The applicants' costs application however relates to the Council's refusal of planning permission only.

Reasons

3. The Planning Practice Guidance (PPG) 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.
4. The applicants claim that the Council acted unreasonably on grounds summarised as:
 - (a) preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - (b) making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
 - (c) refusing planning permission on a planning ground capable of being dealt with by conditions; and
 - (d) not determining similar cases in a consistent manner.
5. The applicants' case substantially rests on the background, assessment and determination of a 2019 scheme submitted in relation to the same property.

That scheme is not the subject of the appeal for which an award of costs has been sought. In this regard the PPG makes clear that costs can only be awarded in relation to unnecessary or wasted expense at the appeal.

6. Insofar as behaviour and actions prior to the appeal can nonetheless be taken into account if relevant, the applicants state that they sought pre-application advice in advance of their submission of the 2019 scheme, and that the latter was recommended for approval by Officers. The scheme was nonetheless refused by the Council's Committee. Whether or not the Committee was influenced by inaccurate information, or failed to take certain evidence into account, its decision was issued, and its reasons for refusal were not challenged at appeal.
7. The appeal scheme shows relatively minor differences to the 2019 scheme, and the Council's decision is consistent with its 2019 decision. Whilst its officer assessment clearly differs, this simply reflects the fact that the Council's position was established by its unchallenged 2019 decision, rather than by its 2019 officer assessment. In this regard the Council has clearly justified the decision subject of the appeal on grounds with which I broadly agree. The issues in question could not have been addressed by condition. This, and the above being so, all Grounds of the applicants' claim fail.
8. I find therefore that the Council did not act unreasonably on any of the Grounds claimed by the applicant, and that consequently the applicant did not incur unnecessary or wasted expense in the appeal process.

Conclusions

9. For the reasons set out above, I find that the applicants' claim for an award of costs should be dismissed.

Benjamin Webb

INSPECTOR