



Costs Decision

Site visit made on 15 February 2022

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 4th March 2022

Costs application in relation to Appeal Ref: APP/Y3940/D/21/3289379 155 East Gomeldon Road, Gomeldon SP4 6NB

- 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 H Hyde for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for the enlargement and alterations to the existing dwelling including the addition of a first floor level, the creation of a porch and first floor balcony, the rear extension of the building, the demolition of the existing lean-to structure on the eastern elevation and alterations to the hardstanding to the front of the property.
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Decision

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

Reasons

2. I have considered this application for costs in the light of the Government's Planning Practice Guidance (PPG). This advises that an award of costs against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. It makes clear that a local planning authority are required to behave reasonably in relation to both of these elements and provides examples of unreasonable behaviour¹.
3. In this case the appellant considers that the Council have acted unreasonably on two counts, and I will deal with each in turn.
4. Firstly, the appellant points to the fall back position of the approved extended dwelling and alleges that the Council have not given this sufficient weight in their decision process, taking into account that the approved dwelling is of a similar scale, bulk, mass and design.
5. However, the planning officer's report has a section entitled 'Background and fallback position' in which the fallback position is acknowledged. Furthermore, the officer goes into some detail regarding how a previous application under the Prior Approval regime (PL/2021/(04094) was refused as being unacceptable in respect of impact on neighbours and on the character of the street scene. Page 4 of the officers report clearly shows the refused scheme

¹ Paragraph: 047 Reference ID: 16-047-20140306 and Paragraph: 049 Reference ID: 16-049-20140306

and the approved scheme and the differences between them in terms of design and reduction in bulk. The officer's report then goes on to state that *the proposed elevations are very similar to those previously refused, but now include additional windows and the porch structure.*

6. So whilst the officer has not directly compared the proposed design with the approved one, it is clear that an assessment has taken place and that the proposed design is deemed to be too akin to the refused scheme which in turn was of a greater bulk and different design to the approved one. It follows that the Council have not acted unreasonably in this matter.
7. Secondly, the appellant has concerns that the Council have ignored, or not given enough credence to, the Sunlight and Daylight report prepared by Right of Light Consulting. However, lack of sunlight and daylight is not included within the Council's reasons for refusal. Reason for refusal No 2 relates to outlook (i.e. how overbearing the proposed dwelling would appear from neighbour's windows) and privacy. As I have found in my planning decision, it may well be that a property receives adequate light, but this does not necessarily mean that the outlook from it has not been compromised. Once again it follows that the Council have not acted unreasonably in this matter.

Conclusion

8. Unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not therefore been demonstrated, and an award of costs is not justified.

John Wilde

Inspector