

Costs Decision

Site visit made on 22 August 2022

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2022

Costs application in relation to Appeal Ref: APP/M1710/D/22/3291934 Wivelrod House, Wivelrod Road, Bentworth, Alton GU34 4AS

- 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 Johanna and Roger Parry for a full award of costs against East Hampshire District Council.
 - The appeal was against the refusal of planning permission for a first floor extension over an existing detached garage to provide home office work space.
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Decision

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

Preliminary matter

2. The Planning Practice Guidance (PPG) explains that only local planning authorities, appellants and interested parties who have taken part in the process may apply for costs. From various references within the appeal and costs submissions, I understand the costs claimant Ms J Waterous to be the same person as the appellant identified on the application and appeal forms as Johanna Parry. The costs claim therefore appears to be valid in this respect despite the different names.

Reasons

3. Parties in planning appeals and other planning proceedings normally meet their own expenses, but the 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. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in such unnecessary or wasted expense.
4. The PPG states that a local authority may be at risk of an award of costs if, amongst other things: (i) it prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and/or (ii) a refusal is based on vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. The claimants submit that the Council failed to properly understand the site and the proposal, confused the original and amended application schemes and

failed to visit the site so that it did not appreciate that the extension would not be seen from the street.

6. The Council's report does clearly refer to the proposal being for a domestic extension atop an ancillary building which has a low rise profile. This and other statements within the report make it clear to me that the correct building was identified by officers. The planning history list in the report includes references to the separate dwelling at Wivelrod Barns which was I understand was previously part of the Wivelrod House estate. This is not unusual where sites have been split up over time and does not show that the Council confused the 2 properties. The officers' report is also clear that it relates to the amended plans.
7. The Council considers that an officer site visit was not necessary due to familiarity with the site. The need for a site visit is in the first instance a matter for the Council and the lack of a site visit for any particular application is not in itself unreasonable. A site visit, in any case, could not have provided a definitive assessment of the visibility of the proposed development from the street. The extension is not in place and this assessment depends largely on angles of view and obstructions which to a large extent could best be demonstrated by section drawings. Although I disagree with the Council's statement that the proposed extension would be of prominent design, from my reading of the plans and observations at my site visit I also disagree with the claimants' assessment that it would not be seen at all in public views.
8. The claimants also say that the Council referred to policies without stating which specific policy criteria were relevant or assessing whether its policies are out-of-date. Whilst it would have been useful for the Council to have itemised the specific policy criteria it considers to have been infringed, the report and the decision notice in combination seem to me to set out a brief but reasonably clear assessment of the proposal in relation to policies.
9. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is one of those 'other material considerations'. Framework paragraph 219 confirms that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them according to their degree of consistency with the Framework.
10. The key policies here¹ are part of the development plan for the area and, although adopted before the current version of the Framework, do reasonably align with the Framework's strong emphasis on good design. I consider it fully reasonable for the Council to rely on these development plan policies, and the Framework, as it has done. The weight to be accorded to these development plan policies does not appear to have been a key point raised in the application submissions.

¹ East Hampshire District Local Plan Second Review Policy HE2 and East Hampshire District Local Plan Joint Core Strategy Policy CP29.

11. Therefore, although I find that the proposal would not be prominent as alleged by the Council, its actions and analysis of the proposal were not unreasonable. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated so that a costs award is not justified.

Les Greenwood

INSPECTOR