



Costs Decision

Site visit made on 5 October 2022

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2022

Costs application in relation to appeal ref. APP/Y3940/D/22/3299672 Land at 13 The Beeches, Lydiard Millicent, Swindon SN5 3LT

- 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 Carl Law for a full award of costs against Wiltshire Council.
 - The appeal was made against the refusal of planning permission for "Erection of single storey front, rear and first floor extensions and replacement roofs with roof lights".
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Costs decision

1. The application for a full award of costs is refused.

Reasons for the costs decision

2. The Government's Planning Practice Guidance (the Guidance) advises that all parties in appeals are expected to behave reasonably to support an efficient and timely process and that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. This application for costs has been considered on its merits in the light of the costs advice found within the Guidance, the appeal papers, the costs correspondence and all the relevant circumstances relating to the planning application and the appeal. The parties are also referred to my appeal decision.
4. This application for an award of costs is made on a substantive basis, relating to the planning merits of the appeal.
5. The Council's decision to refuse planning permission was taken contrary to the recommendation of its officers. Even though Councillors are not duty bound to follow the advice provided by their professional officers, if a different decision is reached, the Council should show on planning grounds why a scheme is unacceptable and offer clear evidence to substantiate that reasoning.
6. The gist of the applicant's case is that the Council failed to produce evidence to substantiate the reason for refusal and introduced vague, generalised and inaccurate assertions about the proposal's impact that were unsupported by any objective analysis. This is said to have prevented development which should have been permitted and led to the unnecessary and wasted expense of lodging an appeal.
7. The Council's minutes are comprehensive and record that there was a full discussion about the planning issues raised by the proposal supported by

- various planning facts with reference being made to relevant development plan policy. Having found that the scheme did not comply with the development plan, the Council was entitled to reach the decision it did.
8. Some confusion arose because the resolution to refuse planning permission on the grounds, amongst other things, that the proposal would not retain accommodation suitable for elderly and vulnerable persons did not find its way into the decision notice which must be taken to represent the settled position of the Council.
 9. The Council's objections to the proposed extension scheme, as set out in the single reason for refusal on the face of the decision notice, were twofold. The appellant disagreed with the Council's position on both of them, but these involved matters of planning judgement.
 10. It will be seen from my decision on the appeal application that the first objection relating to the character, appearance and visual amenity of the locality stood up to scrutiny on the planning merits of the case.
 11. The Council's stance in the second objection relating to the impact on the amenities of neighbouring properties stood up to scrutiny insofar as the potential loss of privacy at 11 The Beeches was concerned, although I favoured a planning condition to resolve that particular planning difficulty. Although I did not agree with the Council about the impact upon the amenities of other surrounding properties, the Council's reasoning on this matter as a whole did not lack substance or objectivity.
 12. I took into account all the material presented by the appellant. I found conflict with the development plan in respect of the character, appearance and visual amenity of the locality and no material considerations of sufficient weight to justify a grant of planning permission. The Council's approach to the available facts did not fully match any of the types of behaviour listed in the Guidance that may give rise to a substantive award against a local planning authority.
 13. In particular, the Guidance advises that where a local planning authority has refused a planning application for a proposal that is not in accordance with development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application. That is the scenario before me in this case, such that there is no substantive basis for an award of costs against the local planning authority.
 14. This application for costs falls short of demonstrating that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has occurred. An award of costs is not justified.

Andrew Dale

INSPECTOR