
Costs Decision

Site visit made on 21 February 2023

by K Townend Bsc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th March 2023

Costs application in relation to Appeal Ref: APP/W4325/D/22/3312388 10 Rowton Close, Oxton, Wirral CH43 2GN

- 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 & Mrs Chadwick for a full award of costs against Wirral Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for extensions to the side and rear of an existing dwelling.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and, that the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary and wasted expense in the appeal process. Paragraph 049 of the PPG¹ indicates that local planning authorities will be at risk of a substantive award being made against them for, amongst other things, not determining similar cases in a consistent manner and 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.
3. The applicants' claim is based on a number of other properties in the vicinity of the appeal site which have previously been extended with first floor, or two-storey, extensions to the side. The applicants suggest that these other extensions demonstrate that the Council has previously granted consent for development that does not comply with the Wirral Metropolitan Borough Council Supplementary Planning Guidance, House Extensions, 2004 (SPG), and that these other extensions should be considered as similar cases to the appeal proposal and, therefore, that the development should have been permitted.
4. As detailed in my formal Decision there are material differences between the appeal property and the other extended properties. Although several other houses have been extended, and a number of these also do not comply with the criteria for a lower ridge height in the SPG. The Council's decision was based on the wider aims of the development plan and the SPG. Moreover, these other extensions have not been determinative in my formal Decision.

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

5. Although I have not reached the same conclusion in my formal Decision the Council has clearly set out the reasons why the development was not acceptable and reached a conclusion that the proposed extension would dominate the existing dwelling; would not be of an appropriate scale and fails to consider the specific character of the building to be extended. The approach the Council have taken is set out and justified within the officer report and is based on the adopted local plan.
6. For these reasons, although I have reached a different conclusion on the effect of the proposal, I have found that the Council had reasonable concerns about the proposed development which justified its decision. The appellant had to address those concerns in any event and therefore the appeal could not have been avoided.
7. I therefore have no substantive evidence that the Council has acted unreasonably in this case. As such, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

K Townsend

INSPECTOR