

Costs Decision

Site visit made on 4 April 2023

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

Appeal Ref: APP/R0660/D/23/3314106

Oakfields Bungalow, Newcastle Road, Weston, Crewe, Cheshire CW2 5PX

- 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 Nevitt, for a full award of costs against Cheshire East Council.
 - The appeal was against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1 Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a first floor extension built off original masonry forming the footprint of the original dwelling (bungalow).
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that irrespective of the outcome of an appeal, costs may only 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.
3. Mr & Mrs Nevitt's application for costs is on the basis that the Cheshire East Council acted unreasonably by refusing an application for Prior Approval Under Class AA, Part 1, Schedule 2 with reference to the Green Belt, in the knowledge that impact on the Green Belt was not an issue in this type of application. They assert that this has resulted in unnecessary expenditure in pursuing the appeal, by employing a planning agent to prepare an appeal statement.
4. For the reasons given in my decision letter, I agree with the applicant that reference to the impact of the proposed development on the Green Belt is not a matter that should have been taken into consideration by the Council in this case. That said the effect of the proposal on the external appearance of the host dwelling is a legitimate matter when considering an application for prior approval under Class AA, Part 1, Schedule 2. In this regard, the High Court¹ have held that the control of the external appearance of the dwelling house is not limited to impact on the subject property itself, but also includes impact

¹ GPDO Class AA and "External Appearance": CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)

on neighbouring premises and the locality. Therefore, it was reasonable for the Council to consider the proposal within its context when reaching its decision.

5. Whilst I have reached a different conclusion, with regard to the impact of the proposal on external appearance, it is apparent that the Council considered this matter in detail. In particular they gave consideration to the scale and mass of the proposal when compared with the host property, its neighbours and the locality. Therefore, whilst there is reference to Green Belt and openness in their refusal notice it is clear that this was not the only factor that led to their decision.
6. Furthermore, in their submissions the Council clarified their interpretation of the legislation and highlighted the fact that the grant of prior approval in other cases should not be seen as a precedent.
7. In light of the above I find that the applicant's time in submitting the appeal and expense devoted to it, were a necessary part of the process. Therefore, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated.

Decision

8. I have considered all the submitted evidence and conclude that the application for an award of costs should be refused.

John Gunn

INSPECTOR