



Costs Decision

Site visit made on 3 April 2023

by A J Sutton BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2023

Costs application in relation to Appeal Ref: APP/C1760/W/22/3308899 Erlcombe, Butts Green, Lockerley, Hampshire SO51 0JG

- 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 M Blackledge for a full award of costs against Test Valley Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a 4 bedroom dwelling with sewage treatment plant and associated soft and hard landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) sets out that irrespective of the outcome of an appeal, costs may only be awarded where a party has behaved unreasonably, in either a procedural or substantive way, which has directly caused another party to incur unnecessary or wasted expense in the appeal process. Examples of unreasonable behaviour include preventing or delaying development which should be permitted, failure to produce evidence to substantiate reasons for refusal on appeal, and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
3. The PPG advises an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
4. The applicant asserts that the Council ignored officers' recommendations. The applicant also contends that members of the planning committee were prejudice against the proposal and that the minutes of the meeting did not record the debate. The Council is not bound by pre-application discussions or officer recommendations and there is no substantive evidence that the Council was prejudice in its decision making.
5. The Council's reason for refusing this proposal is similar to the reason cited for refusing a previous proposal at the appeal site. The applicant states in respect of the previous proposal, the principal reason for refusal was the proposed gable, and the applicant states that the scheme was revised to address this matter. However, the reason referenced in that previous case states 'the

- proximity of the blank, two storey gable end of the proposed dwelling', and in this regard the impact identified previously was not limited to a gable feature.
6. This aside, the proposal subject of this appeal, is for a hipped roof dwelling, and this is stated in the Council's decision notice. The Council's first reason for refusal states that the proposal would harm the living conditions of the occupants of Bowmans with regards outlook; it also references the garden of Bowmans, and this is substantiated with reference to relevant local plan policies. The impact identified by the Council is neither vague nor generalised.
 7. The Council accepts that there was an error in the decision notice regarding the gable end. However, this is a typographical error, as clarified by the Council in their appeal statement, and in any event, the decision notice correctly referenced the proposed hipped roof.
 8. The Council's appeal statement indicates that the proposal would result in harm, with regards outlook from the windows in the rear elevation of Bowmans and refers to first floor windows. This is precise. The harmful impact identified by the Council, with regards the windows, is limited to living conditions and outlook. Moreover, although the Council raises concerns about the proposed design of the dwelling, this is also in the context of living conditions, in particular outlook. Therefore, the applicant has not had to address new issues in this appeal process.
 9. Overall, I find that the Council substantiated this reason for refusal through the appeal process and as is evident from my decision, I share the Council's concerns. Consequently, the Council did not prevent or delay development which should be permitted.
 10. Given the above, in my assessment, the appeal was necessary in light of the reasonable resolution of the Council.

Conclusion

11. For the above reasons I find that the Council did not act unreasonably in refusing the planning application for the reasons given and, having regard to the PPG and all other matters raised, an award for costs is not justified.

A J Sutton

INSPECTOR