
Costs Decision

Site visit made on 24 July 2023

by Alison Fish DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2023

Costs application in relation to Appeal Ref: APP/D1265/D/22/3306902 Jack's Lodge, Northleigh Lane, Colehill, Dorset BH21 2PJ

- 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 and Mrs Cannon for an award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission described on the application form as 'Demolish first floor lean-to extension, veranda, porch and chimney stacks. Erect glazed garden room, replacement porch and veranda. Remodel existing dormer roofs and create viewing gallery, increase height of one chimney stack, with associated internal alterations. Install 3no. air source heat pumps on Annexe building'.
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Decision

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

Preliminary Matters

2. The application for costs does not expressly state whether the applicant is seeking a full or partial award of costs against the Council. On the basis of the information before me, it appears that the applicant is seeking costs on the basis that the Council did not produce evidence to substantiate the reason for refusal given on the Decision Notice dated 28 July 2022. As such, I consider that the application seeks a full award of costs and I have determined this application accordingly.

Reasons

3. The Planning Practice Guidance advises that costs may be awarded where a party has acted unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
4. The applicant's case for an award of costs is that the Council subsequently approved all works included within the appeal submission, with the exception of the viewing gallery and that the addition of the viewing gallery would not lead to a loss of openness which is normally associated with urban sprawl rather than development appearing above an existing building. In addition, the applicant's case is that the Council failed to supply any evidence to demonstrate that the roof viewing gallery would prejudice the openness of the Green Belt.
5. It is clear from the Council's submissions that it was only the viewing gallery element of the proposal which they found to be harmful to the Green Belt.

Indeed the Council subsequently granted planning permission for an almost identical scheme without the viewing gallery element.

6. Whilst the Council do not appear to have had any regard to the guideline figures set out in the supporting text to Saved Policy GB3 of the LP in assessing whether the proposal was disproportionate, it is clear that the Council had concerns that the provision of the viewing gallery which amounted to the addition of a fourth floor to the dwelling would harm the openness of the Green Belt and therefore found the proposal to be at odds with criteria a) of the policy.
7. I am not persuaded by the applicant's argument that openness only relates to urban sprawl and not increasing the height of a building, particularly as Saved Policy GB3 refers to whether an extension materially changes the impact of the dwelling on openness especially through its height and bulk. In assessing the appeal proposal, I too found that the addition of the viewing gallery would add to the bulk of the dwelling and have an effect on openness.
8. Given the prominence of the viewing gallery addition, and notwithstanding my findings, I do not consider that the Council were unreasonable in concluding that the openness of the Green Belt would be harmed. Nor am I persuaded that the Council's concerns have not been substantiated. The effect on openness is a subjective view and the Council clearly set out their concerns in the Householder Application Report.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

Alison Fish

INSPECTOR