



Costs Decision

Site visit made on 20 March 2025

by **R Lawrence BSc (Hons), PGDip (TP), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st May 2025

Costs application in relation to Appeal Ref: APP/Z3635/W/24/3353029

4 Sandhills Meadow, Shepperton, Surrey TW17 9HY

- 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 Lees for a full award of costs against Spelthorne Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing bungalow and erection of a replacement bungalow with accommodation in the roof.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may 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. The applicants seek a full award of costs, in summary, because the Council has miscalculated the proposed volume figures, failed to apply the appropriate weight to three approved permitted development extensions, and for failing to determine similar cases in a consistent manner. It is argued that the above issues, led to the Council concluding the proposal amounted to inappropriate development in the Green Belt, for which the very special circumstances necessary to justify development in the Green Belt did not exist, and consequently, the refusal of the application.
4. Whilst there are considerable differences between the Council's volume calculations and those of the appellants, these appear primarily to be the result of a disagreement over whether a number of permitted development extensions, which had not been built out, should have been included within the existing building volume calculations. As will be noted from my main decision, the extensions in question, and in line with the policy test, did not form part of the existing built form on site. Accordingly, the Council's approach, despite differing from that adopted by a previous inspector, had policy justification and was not unreasonable in that regard.
5. Turning to the matter of the weight to be attached to the extensions, which had not been built out, the Council specify that moderate weight should be attached. Within my own decision, the extant permissions were one of a number of factors, relevant to the context, which led to my finding that the proposal would not be inappropriate development. Although the Council did not consider the extant extensions in

- assessing whether the scheme would be materially larger, it did have regard to them in assessing whether very special circumstances existed. In this regard, the Council's assessment included a detailed comparison of the development that could be achieved, were the extensions to be fully built out, compared with the appeal proposal. The level of weight to be attached, is a matter for the decision maker, however, it is well established that for significant weight to be afforded to a fallback scheme, it needs to be equally or more harmful than the appeal scheme.
6. In comparing the existing building, together with the permitted development extensions, to the proposed development, the Council concluded that the appeal scheme would be materially larger than the fallback schemes, and accordingly, would result in a greater impact on the openness of the Green Belt. Whilst this is a different approach to my own, the level of weight apportioned is explained and as such I do not consider this amounts to unreasonable behaviour.
 7. The above finding was based on the applicants' own figures. It therefore follows, even if there were a significant error in the Council's calculations, that this did not alter the outcome of the application such that an appeal would have been avoided.
 8. It is put to me that the Council has not determined similar cases in a consistent manner, with reference to a number of schemes for replacement dwellings. However, as far as I can determine based on the extent of information before me, these schemes will all have their individual floorspace changes, and what constituted the original dwelling may all be different. Therefore, the information does not clearly demonstrate that the circumstances in those cases are so comparable to the present scheme that a precedent had been set in the way that the Council had determined replacement dwellings. It appears to me that the approach of the Council was to consider the scheme on its merits and made a judgement based on the information in this case and the application of the relevant policies. While I have come to a different decision, the approach of the Council was not unreasonable.
 9. I therefore conclude, for the reasons set out above, that unreasonable behaviour by the Council resulting in unnecessary or wasted expense has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not justified.

R. Lawrence

INSPECTOR