



Costs Decision

Site visit made on 31 January 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16.02.2024

Costs application in relation to Appeal Ref: APP/W1715/D/23/3334002 Burlair, Botley Road, Horton Heath, Eastleigh, Hampshire SO50 7DQ

- 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 Sinclair for a full award of costs against Eastleigh Borough Council.
 - The appeal was against the refusal of planning permission for a two-storey rear extension, interior and elevational changes.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their expenses. However, the Planning Practice Guidance 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 expenses in the appeal process.
3. In refusing the planning application, the applicant considers that the Council has:
 - failed to produce evidence to substantiate each reason for refusal;
 - made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
 - not determined similar cases consistently; and
 - prevented or delayed development which should clearly be permitted.
4. The sole issue contained within the Council's reason for refusal relates to the effect of the proposed development on the character and appearance of the area. On the decision notice, this reason is complete, precise, specific and relevant to the application. It also clearly states the local and national planning policies with which the proposed development would be in conflict. The Council does not need to refer to specific paragraphs of the Framework¹ in the reason for refusal, even if this would be helpful to the applicant.
5. Within the Delegated Officer's Report, the Council have set out the reasons why the proposed development would be contrary to the provisions of the development plan. These are clearly expressed, highlighting the positive and negative aspects of the scheme. Matters of design and the effect of a proposal on the character and appearance of the area are largely subjective, requiring a

¹ The National Planning Policy Framework (the Framework)

judgment to be undertaken. However, any judgement should also be based on the specific design proposals. The contents of the Delegated Officer's Report provide references to specific design details with commentary demonstrating the reasoning behind the Council's judgement. Although my judgement has led to me conclude that the proposed development would not harm the character and appearance of the area, this does not mean the Council have acted unreasonably by coming to a different conclusion.

6. I have been presented with several examples of redevelopment or remodelling of dwellings the Council has previously approved along Botley Road. Notwithstanding the details provided, a different planning regime was in place at the time these decisions were made. Moreover, each planning application should be considered on its own merits and as I have found that the Council acted reasonably in its determination of this case, I see no reason to conclude that the Council has acted inconsistently.
7. The presumption in favour of sustainable development is at the heart of the Framework and applies during plan-making and decision-taking. Where the development plan is up-to-date, proposals should be determined against the policies contained therein. I have no substantive evidence before me in this case to conclude that the development plan is not up to date. Consequently, the provisions of paragraph 11dii) of the Framework requiring any adverse impacts of the proposed development to be balanced against its benefits are not applicable.
8. Accordingly, I conclude that the Council has provided evidence to substantiate each reason for refusal, supported by objective analysis and determined the planning application based on the merits of the scheme. Given the subjective nature of design, I do not consider that the Council's decision has prevented or delayed development which should clearly be permitted and the appeal could not have been avoided.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Juliet Rogers

INSPECTOR