



Costs Decision

Site visit made on 7 August 2024

by S Leonard BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2024

Costs application in relation to Appeal Ref: APP/W1715/W/23/3330250 63 Chalvington Road, Chandlers Ford, Hampshire SO53 3DY

- 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 N Sansome for a full award of costs against Eastleigh Borough Council.
 - The appeal was against the refusal of planning permission for change of use of existing detached garage to create 1No. one-bedroom detached dwelling, addition of porch canopy and insertion of 2No. rooflights, with associated off-street parking.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process. The applicant is seeking a full award of costs on substantive and procedural grounds.
4. Paragraph 049 of the Guidance states that examples of unreasonable behaviour by local planning authorities which may give rise to a substantive award of costs include: preventing or delaying development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations; inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and persisting in objections to a scheme or elements of a scheme which an Inspector has previously indicated to be acceptable.
5. The applicant considers the inclusion of the matters of plot size and the features and small proportions of the building within the Council's first reason for refusal to be unreasonable, particularly having regard to the previous appeal decision¹.

¹ APP/W1715/W/18/3213171

6. My Decision, which accompanies this costs decision and should be read in conjunction with it, explains how I have taken account of the previous appeal decision and how the current scheme does not overcome the previous Inspector's concerns. This includes reference to the matter of the proposed amenity area, which is distinct from that of the overall plot size.
7. My Decision also explains why I have found no material harm to the townscape as a result of the proportions of the new dwelling. However, I do not consider that the Council acted unreasonably by including this factor within the first reason for refusal, since the matter of the building being perceived differently within the street scene when used as an independent dwelling had been raised by the previous Inspector.
8. Moreover, the matter of building proportions had not been included within the previous application reasons for refusal and the previous Inspector had not specifically addressed this issue. As such, my findings in this respect do not contravene the previous decision letter.
9. The applicant considers that the Council has incorrectly applied the Nationally Described Space Standards (NDSS) and as such, has unfairly assessed the matter of internal living conditions. My Decision explains why I have not found this to be the case and why I concur with the Council that the proposal would not provide adequate living standards for future occupiers, having regard to internal living space.
10. As such, I find that the Council has not acted unreasonably having regard to the substance of its first and second reasons for refusal.
11. The applicant's claim on procedural grounds relates to the Council's behaviour in respect of the planning application determination process in failing to communicate with the applicant and negotiate to overcome its objections to the proposal.
12. Whilst the Guidance states that costs cannot be claimed for the period during the determination of the planning application, it advises that behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded, and that, where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs.
13. Whilst the communication process with the Council has caused the applicant some concern, and I appreciate that the outcome of the application will have been a disappointment to the applicant, I find nothing to suggest that a decision was not reached on the merits of the proposal as submitted by the applicant.
14. There is no substantive evidence before me that the applicant sought the planning officer's opinion prior to the issue of the decision. Moreover, the applicant did not seek pre-application advice from the Council, as advocated in the *National Planning Policy Framework 2023*.
15. As such, I do not find that the Council acted unreasonably having regard to procedural matters during the planning application process.

Conclusion

16. Having regard to the above, I find that the Council was entitled to refuse the application and defend the appeal and has not acted unreasonably in so doing.
17. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

S Leonard

INSPECTOR