
Costs Decision

Site visit made on 10 January 2017

by Nick Fagan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31st January 2017

Costs application in relation to Appeal Ref: APP/C1760/W/16/3159612 Indalo, Chilworth Road, Chilworth, Southampton, Hampshire SO16 7JS

- 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 Mrs Yvonne Bajar 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 detached dwelling with associated works.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, Planning Practice Guidance (PPG) advises that costs may only 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 appellant's claim is on the grounds that the Council has simply misunderstood the plans and that there is demonstrably no prejudicial overlooking of Indalo's windows, and that it has been inconsistent with the recent nearby appeal decision at Heather Hill¹ in relation to the plot size issue.
4. The principal windows of the new dwelling would face south and would not overlook Indalo. I agree in my decision that the first floor window to the hallway entrance would not result in overlooking either. But I have found there would be likely overlooking of the nearest windows in Indalo from the embanked parking area and so I disagree that the Council has been unreasonable in pursuing an argument in respect of overlooking *per se*.
5. The Council does, in paragraph 5.7 of its Statement of Case, compare the plot size of the appeal site with the mean average plot size in the immediate vicinity, apparently contrary to the reasoning in paragraph 7 of the Heather Hill Inspector's decision.
6. But it also argues that the development would leave the original property at Indalo with plot sizes half or less than half of that of both the appeal site and neighbouring sites. Since that is a key element of strand a) of Local Plan Policy E4 this is, as I have concluded, a relevant point. The Council has not therefore been inconsistent in this regard; on the contrary, it has assessed the appeal

¹ APP/C1760/W/16/3152135

proposal on its merits in relation to Policy E4, which is what it should have done.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Nick Fagan

INSPECTOR