
Costs Decision

Site visit made on 27 February 2017

by Veronica Bond LLB (Hons), Solicitor (non-practising)

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

Decision date: 3 April 2017

Costs application in relation to Appeal Ref: APP/Y3940/W/16/3162992 Claremont, Romsey Road, Whiteparish SP5 2SA

- 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 Derek Edwards for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for erection of a 6 bedroom detached dwelling.
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Decision

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

Procedural Matters

2. I have taken the address of the appeal site from the application form. The Council's decision notice does however, more appropriately describe the site as 'Land to the south of Claremont, Romsey Road, Whiteparish SP5 2SA'. The description of development above is taken from the application form. The reference to 6 bedrooms would though appear erroneous as the application plans and other documentation indicate a 4 bedroom dwelling.

Reasons

3. 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 expense in the appeal process.
4. The basis for the appellant's costs application is essentially that the Council: prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failed to produce evidence to substantiate each reason for refusal on appeal; made vague, generalised or inaccurate assertions about a proposal's impact, unsupported by any objective analysis.
5. As to the first basis for the claim, the appellant considers that its appeal statement is sufficient to indicate that the proposal should clearly have been permitted. I have not shared the appellant's view and have found in favour of the Council in respect of both main issues. I found essentially that that the proposed development would detract from the open setting of the Conservation Area, and, by reason of its scale and proximity to a neighbouring dwelling, would have an overbearing effect. Further, issues relating to character and appearance and living conditions both involve some degree of subjective

assessment and judgment and as such, it is not correct that the proposal is one that should clearly have been permitted.

6. The Council has not prepared a separate appeal statement in order to respond to the appellant's statement, but rather has elected to rely on its Officer's Report. This does not automatically mean that the Council has failed to substantiate its reasons for refusal on appeal. The Officer's Report provided objective justification as to the harm to the character and appearance of the area, referring specifically to the absence of backland development in the vicinity of the appeal site. Whilst the Report does not provide a detailed analysis of the wider area, it was not inappropriate for the Council to reference the pattern north and west of the plot fronting Romsey Road, given that this is closely related to the appeal site.
7. However, no detailed analysis is provided as to why the proposal would be significantly discordant with the existing Conservation Area. No assessment is made as to the existing character of the Conservation Area and there is no reference in the Officer Report to the unadopted Conservation Area Appraisal, which the appellant has referenced. Indeed, the Conservation Officer raised no objection, although had some concerns over the barn like design. In this particular respect, the Council has therefore acted unreasonably in failing to produce evidence to substantiate its reason for refusal on appeal.
8. The basis for the assessment of harm to the living conditions of neighbouring occupants was detailed with reference to separation of the proposed dwelling from the boundary with Claremont, and to the height of the building proposed. Whilst the Council has not specifically responded to the appellant's evidence contained within its appeal statement, objective justification is provided. Further, the appellant does not give any detail as to alleged flawed thinking and justifications within the Officer's Report.
9. As to the third limb of the appellant's costs application, no evidence is provided to substantiate the concern of inaccurate assertion on the part of the Council. As outlined above, although the Council has not provided an appeal statement specifically addressing points made in the appellant's statement, nonetheless, it has provided objective analysis in support of its reasons for refusal within the Officer's report. This is though with the exception of the impact upon the adjacent Conservation Area.
10. With respect to the issue of wasted expense, representations from the Parish Council referred to harm to the adjacent Conservation Area and as such, representations surrounding this issue do not represent wasted expense as the appellant would have needed to comment on this issue in any event. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that an award of costs is not justified.

Veronica Bond
INSPECTOR