The Planning Inspectorate

Costs Decisions

Site visit made on 15 May 2017

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 27 June 2017

Costs application in relation to Appeal Ref: APP/L3815/W/17/3169679
Dragon Nursery, Third Avenue, Almodington, Earnley, PO20 7LB

- 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 C Durant for a full award of costs against Chichester District Council.
- The appeal was against the refusal of planning permission for the erection of 1no custom/self build dwelling – Alternative to dwelling permitted by virtue of Class P Prior Approval for Change of Use from Class B8 (Storage) to Class C3 (Dwellinghouse) under E/15/04244/PA3P.

Costs application in relation to Appeal Ref: APP/L3815/W/17/3169680
Dragon Nursery, Third Avenue, Almodington, Earnley, PO20 7LB

- 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 C Durant for a full award of costs against Chichester District Council.
- The appeal was against the refusal of planning permission for the erection of 1no custom/self build dwelling – Replicating change of use to dwelling permitted by virtue of Class P Prior Approval for Change of Use from Class B8 (Storage) to Class C3 (Dwellinghouse) under E/15/04244/PA3P but with false pitch roof and roof lanterns.

Decision

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

Reasons

2. 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.

3. The appellant states that the refusal reasons in both appeals lacked precision and clarity. However, I disagree. The reasons for refusal were complete, precise, specific and relevant to both applications. They clearly set out the policies that the proposals would be in conflict with. Furthermore, these reasons for refusal were expanded upon and adequately substantiated by the Council in its officer reports and appeal statement.

4. The decision as to the weight to be attached to the 'fallback' position in the above appeals is one which I consider to be a matter of judgement. That the Council came to a different opinion to the appellant on this matter, even in light of the appellant's additional evidence supplied at appeal stage, does not amount to unreasonable behaviour, so long as a case could be made for the

contrary view. It will be seen from my decision that I agree with the Council that the 'fallback' position in these cases did not outweigh the conflict with the Development Plan. It follows that I am satisfied that the Council was able to substantiate their reasons for refusal.

5. As set out in my decision, the permission granted by the Council at Sidlesham is not directly comparable to these appeals as the 'fallback' position in that case concerned the permitted change of use of a timber and brick construction building rather than a greenhouse. It was therefore not unreasonable for the Council to take a different view in this case.

6. Taking the above points together I conclude that the Council did not prevent or delay a development which should clearly have been permitted and as such unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. An award of costs is therefore not justified.

Hayley Butcher

INSPECTOR