

Costs Decision

Site visit made on 8 May 2018

by Jameson Bridgwater PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st May 2018

Appeal Ref: APP/H1840/W/18/3196410

The Old Orchard, Haselor Lane, Charlton WR11 2QZ

- 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 Nick Brennan for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal of planning permission for a proposal described as 'a dwelling without complying with a condition attached to planning permission Ref W/83/1345/O, dated 19 January 1984'.
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Decision

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

Reasons

2. National Planning Practice Guidance (the Guidance) 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 appeals process.
 3. The Guidance further sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. Additionally the Guidance is clear that costs cannot be claimed for the period during the determination of the planning application. However, 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.
 4. The appellants' application for an award of costs states that the Council should not have refused their application as they considered that Condition No 6 was no longer enforceable and therefore should have been removed. However, the Council in their officer's report and appeal statement clearly demonstrated that the occupancy restrictions set out in Condition No 6 could potentially be reinstated and therefore theoretically the condition could be enforced at some point in time. As such, the Council have exercised their planning judgement and supported their decision with the necessary evidence that adequately substantiates their reason for refusal and directly relates it to the relevant policy of the Development Plan.
 5. Consequently, whilst I have found in favour of the appellant in terms of the appeal decision; based on the information before me there is no substantive evidence that demonstrates that the Council have behaved unreasonably in relation to their consideration and determination of the planning application.
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6. In conclusion I find that it has not been demonstrated that the Council behaved unreasonably in determining the planning application and that the appellant's costs in mounting the appeal were not unnecessarily incurred. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

Jameson Bridgwater

INSPECTOR