
Costs Decision

Site visit made on 26 November 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2019

Costs application in relation to Appeal Ref: APP/W1715/D/19/3234157 10 Western Road, Chandler's Ford SO53 5DA

- 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 Al-rawai for a full award of costs against Eastleigh Borough Council.
 - The appeal was against the refusal of planning permission for remodelling of existing property with first floor roof extensions and internal alterations.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 application is based on the assertion that the proposals comply with development plan policies and should therefore have been approved, and that no evidence has been provided by the council to justify its refusal.
4. The PPG indicates that local planning authorities are at risk of an award of costs if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. In this instance, the council relied on one development plan policy, and the advice in two supplementary planning documents (SPDs) in its reason for refusal.
5. Policy 59.BE of the Eastleigh Borough Local Plan Review (2006) permits developments that take full and proper account of the context of the site, including the character and appearance of the locality, and are appropriate in mass, scale, materials, layout, design and siting, both in themselves and in relation to adjoining buildings, spaces and views. In determining whether the proposal was in accordance with this policy, the council had to exercise judgement in assessing whether it took proper account of its context, and whether it was appropriate.
6. The Quality Spaces SPD provides more detailed advice on dormer windows, but still leaves scope for the exercise of judgement in whether their size, position and detailing complement the existing features of the house. Similarly, subjectivity is involved in concluding whether a proposal accords with the

Chandler's Ford and Hiltingbury Character Areas SPD, which advises that extensions should fit well into the overall street scene. Consequently, none of these policy documents indicates that the appeal proposals should clearly have been permitted.

7. The PPG indicates that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate a reason for refusal. The council's decision notice stated the specific elements of the design that it considered to be unacceptable. The officer's report set out, concisely, the reasons that led to that conclusion, which were based on a subjective interpretation of the relevant development plan policy and SPD guidance. Therefore, although I have come to a different conclusion in my decision, it does not follow that the council acted unreasonably.
8. Consequently, I find that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Nick Davies

INSPECTOR