

Costs Decision

Site visit made on 10 December 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2020

Costs application in relation to Appeal Ref: APP/W1715/W/19/3233945 92 Common Road, Chandler's Ford SO53 1HB

- 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 Chanhvinh Le for a full award of costs against Eastleigh Borough Council.
 - The appeal was against the refusal of planning permission for demolition of an existing single storey garage and the erection of a new dwelling along with associated parking and landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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 applicant considers that the Council failed to properly exercise their development management responsibilities. It is contended that this constitutes unreasonable behaviour which caused the applicant unnecessary and additional expense addressing unnecessary matters.
4. I have noted the various errors in the Council's Officer Report. However, the errors are not particularly significant and do not indicate that the Council's assessment of the planning application was fundamentally flawed nor that its subsequent conclusions were inappropriate and refusal reasons unnecessary. Although the Council acknowledges that its Officers did not enter the site, I observed on my site visit that it is possible to view a reasonable amount of the site and note relevant features – such as the general size of the garden areas, boundary treatment and the trees at the rear – from the highway. The stream is also visible from Common Road. Combined with the detail in the submitted plans and reports, this would have provided Officers with sufficient information in which to determine the application. The Council's refusal reasons were not therefore based on obviously inappropriate conclusions.
5. Although they did not comment on biodiversity matters, the Environment Agency (EA) were consulted by the Council. The Council's decision was based on specialist advice from its Biodiversity Officer, who revealed that an informal discussion indicated that the EA's Biodiversity Officer would also have objected if formally consulted. The third reason for refusal is therefore not inappropriate.

6. Although plot size is not specifically referenced in national or local planning policy, this does not mean that it is not a relevant consideration. Given the Council's findings on the planning application, it seems reasonable to me to consider that the development would not make an efficient use of land. Although the first and second part of the exception test were misreferenced, the Council's Officer Report also clearly considers the wider sustainability matters of the test.
7. Irrespective of the Council's determination of other planning applications, each case must be determined on its own merits. The Council's decisions on other planning applications do not indicate that relevant planning policy should not be followed in this case, nor that the appeal proposal would be acceptable and the refusal reasons were unnecessary.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Tobias Gethin

INSPECTOR