



Cost Decision

Site visit made on 7 April 2021

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 19 May 2021

Cost application in relation to Appeal Ref: APP/R3650/W/20/3264022 Chinthurst Ridge, Chinthurst Lane, Bramley, Guildford GU5 0QH

- 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 & Mrs C Bouckley for an award of costs against Waverley Borough Council.
 - The appeal was against the refusal of planning permission for change of use of land for use as an extended area of garden.
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Decision

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

Preliminary Matters

2. The Applicants have not made clear whether their application is for a full or partial award of costs; I shall consider on both bases.

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 Applicants contends that the Council has acted unreasonably as it has relied on vague generalised or inaccurate assertions about the impact of the proposal, unsupported by objective analysis and also not determining similar cases in a consistent manner.
5. Taking the second matter first, there is no information before me to substantiate the Applicants' concerns that the Council has not determined similar cases in a consistent manner; furthermore, each case must be judged on its individual merits.
6. I agree with the Applicants that it would have been helpful if the Council had set out clearly the harm found, followed by a separate section to look at the very special circumstances and whether these outweighed the harm. This was undertaken in the Council's appeal statement of case, but although most points were addressed by the Council at the application stage, it was not laid out in such a clear way. However, I do not consider that this can be regarded as amounting to unreasonable behaviour.
7. In respect of the impact on the setting of the listed building, and although I have reached a different finding to the Council on this one matter, this is a

largely subjective issue, and I consider that the Council was entitled to reach the decision that was reached on the basis of all the material before it.

8. I do however agree with the Applicants that the Council's reference to the visual amenity of neighbours is not clear and precise; the Council's concerns are not at all clear, particularly as it also confirms that the residential amenities of the neighbours would not be harmed. Its particular concerns were not substantiated to make explicit the reason for refusal in this respect. It does seem to me that, in this one respect, the Council has raised as a reason for refusal a matter which it has been unable to substantiate at appeal and this does amount to unreasonable behaviour.
9. I turn then to the matter of wasted expense. There is nothing before me to indicate that the appeal could have been avoided and indeed I have dismissed the appeal, albeit not reaching the same conclusion as the Council under each and every issue. On that basis it seems to me that in terms of the overall appeal case, the consideration of this one matter relating to visual amenities of neighbours was relatively minor and unlikely that it would have incurred significant extra work so as to amount to wasted expenditure.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

L J Evans

INSPECTOR