



Costs Decisions

Site visit made on 1 April 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2021

Costs application A in relation to Appeal Ref: APP/W1715/W/20/3248893 Chalcot, York Road, Netley Abbey SO31 5DD

- 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 Wilkinson for a full award of costs against Eastleigh Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing one-bedroomed dwelling and garage and replacement with new two-bedroom dwelling.
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Costs application B in relation to Appeal Ref: APP/W1715/W/20/3265379 Chalcot, York Road, Netley Abbey SO31 5DD

- 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 Wilkinson for a full award of costs against Eastleigh Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing one-bedroomed dwelling and garage and replacement with new one-bedroom dwelling.
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Decisions

1. The application for costs (Application A) is refused.
2. The application for costs (Application B) is refused.

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. There are effectively two types of unreasonable behaviour; that in relation to the substantive merits of the case, or alternatively, procedural issues.
4. The applicants effectively assert that in relation to both Appeals A and B, the Council has prevented development which should have been permitted; failed to substantiate or justify the reasons for refusal; refused permission on a ground capable of being dealt with by condition; not followed well-established case law or determined similar cases in a consistent manner.
5. Whilst I accept that the applicants sought pre-application advice, such advice is not binding on any formal decision of the Council. Appeal A was recommended for refusal by the Planning Committee and was subsequently refused. The reasons for the refusal are clear and are adequately substantiated in the Council's report and Statement of Case. Having reviewed this case, I am not of the opinion that there are any precedents so similar or caselaw so relevant that the Council should have reached an alternative decision. Furthermore, the

- identified harm that was anticipated from the proposal was not capable of being overcome by a planning condition.
6. In relation to Appeal B, there was a recommendation in favour of approval of the scheme from the Council's professional officer to the Planning Committee. The Built Heritage consultee's positive comments were noted as part of the report. Despite the supportive recommendation, the Planning Committee's members collectively reached a different view on the merits of the proposal; opting to refuse planning permission for two reasons.
 7. Democratically elected members are not obliged to accept the recommendations of their officers in respect of matters such as planning proposals. Whilst on balance, I have disagreed with the reasons put forward, they are understandable in relation to the unique site characteristics, the proposal and the sensitivities of the surrounding area. Design and effects on character and appearance are largely subjective and the views expressed have been captured and sufficiently explained in the evidence. Again, I do not consider any caselaw or precedent examples so similar as to suggest that the Council has been inconsistent.
 8. The second reason for refusal in relation to the garden deficiencies is also understandable given the site constraints but I have balanced its qualitative factors against the shortfall in its quantity to find the scheme acceptable in this regard.
 9. Whilst I appreciate that the outcome of the application for Appeal B will have been a disappointment to the applicant given the officer's recommendation, the Council were not unreasonable in coming to that decision and the appeal, with its attendant costs, could not have been avoided. The Council's reasons for refusal are complete, precise, specific, relevant to the application, and the evidence produced in defence of the case is not vague, generalised or inaccurate.
 10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and a full or partial award of costs is not justified in respect of either application.

Hollie Nicholls

INSPECTOR