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## Costs Decision

Site visit made on 17 January 2022

**by Graham Wyatt BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3<sup>rd</sup> March 2022**

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### **Costs application in relation to Appeal Ref: APP/D1590/W/21/3274494 34 Elmsleigh Drive, Southend on Sea, Essex SS9 3DN**

- 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 Duncan Reed (Eton Southchurch Property Limited) for a full award of costs against Southend on Sea Borough Council.
  - The appeal was against the refusal of planning permission for the proposed demolition of existing bungalow and replace with 3no. town-house style dwellings.
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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. The Guidance further sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. Additionally, the Guidance states that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The planning application was refused contrary to the advice of professional officers. This in itself is not unreasonable behaviour as the committee was not bound to accept the officer recommendation provided it could show reasonable planning grounds for taking a contrary decision. Whilst the applicant may not like the approach taken by the committee in reaching its decision, it is for me to consider whether the decision was reasonable and soundly based.
4. It is evident that members of the committee are not planning professionals and are guided by Council officers on such matters. The applicant has provided a transcript of the committee meeting and I have not been provided with any evidence to suggest that the Council disagrees with its contents. From the transcript it is clear that officers attempted to steer members away from using the term 'overdevelopment' unless they could identify harm as a result.
5. However, it is evident that members of the committee raised concerns over several matters such as the loss of a bungalow, overlooking and the "*squeezing of three houses on the property*". The term 'overdevelopment' can relate to many elements, including its effect on the character and appearance of the area. It is clear that members voted on a reason to refuse planning permission that included the visual appearance of the development in relation to the

bungalow on one side, and the larger semi-detached properties on the other. Additionally, members took a view that two storey properties with rooms in the roof space would be seen as three storey properties, with the appearance that they had been crammed into the site.

6. Therefore, the fact that the committee arrived at a different conclusion to officers, despite their advice, is not itself a reason to find in favour of the applicant. It is evident that the perceived harm to the character and appearance of the area, through overdevelopment of the site, was a legitimate concern that was raised by the committee.

### **Conclusion**

7. Thus, on the evidence before me and upon reviewing the reasons for refusing planning permission, I am therefore satisfied that the Council gave sufficient consideration to the planning application and unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated and an award of costs is not justified.

*Graham Wyatt*

**INSPECTOR**