



Costs Decision

Site visit made on 16 August 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2022

Costs application in relation to Appeal Ref: APP/Y1110/W/21/3292741 1A Rosebarn Avenue, Exeter EX4 6DY

- 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 Tim Davies for a full award of costs against Exeter City Council.
 - The appeal was against the refusal of planning permission for new dwelling with associated access and parking.
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Decision

1. The application for costs is refused.

Reasons

2. 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.
3. The applicant is seeking an award of costs on the basis that the Council has made vague, generalised or inaccurate assertions about the proposal's impact, with particular regard to the living conditions of occupiers of No 1 Rosebarn Avenue. It is also alleged that the Council has persisted in objecting to elements of a scheme which an Inspector has previously indicated to be acceptable, with reference to the previous appeal decision for a dwelling on the site¹. Additionally, the appellant asserts that the Council has failed to determine similar cases in a consistent manner, citing that other schemes including a varied palette of materials have been found acceptable, unlike the appeal scheme.
4. In respect of the impacts on No 1 Rosebarn Avenue, it is asserted that the proposal would have an overbearing effect, resulting in a loss of outlook. For reasons set out in the appeal decision, I consider that these impacts would be acceptable. However, the Council has not made vague or generalised assertions in this regard; the concerns are clearly set out. As to whether the claims are inaccurate is less clear, as these impacts are, to an extent, subjective and are certainly site-specific. I do not regard that the Council have been unreasonable in expressing the view that it did.
5. In respect of the failure to take sufficient regard of an Inspector's view in respect of elements of a scheme that were found to be acceptable, I note that the scheme before me is materially different to the previous scheme and therefore, was considered on its own specific merits. Whilst there are some

¹ APP/Y1110/W/20/3265231 dated 12 April 2021

commonalities between the considerations and, to a lesser extent, with the reasons for refusal, I do not consider that the Council has repeated findings that were previously found to be acceptable in relation to the previous appeal.

6. The allegation that the Council has failed to consider like schemes in a similar manner appears to refer to the Council's resistance to an element of timber cladding within the scheme. I accept that this material appears in the surroundings, albeit in only small quantities with either a neutral or positive effect. However, the circumstances which led to timber elements being present on buildings in the surroundings are not provided in full for each case and may have been site-specific, depending on the appearance of the building in question and its immediate streetscene context. Whilst I have found in favour of the appellant in this regard, the degree of subjectivity in the assessment of a scheme's appearance can only lead to me finding that the Council have behaved in a reasonable manner and has not been inconsistent in its approach.
7. For the foregoing reasons, I do not find that the Council has behaved unreasonably, either substantively or procedurally in relation to the appeal application or the appeal itself. Wasted expense, as described in the PPG, has not been demonstrated and, therefore, an award of costs is not justified.

Hollie Nicholls

INSPECTOR