



Costs Decision

Site visit made on 12 December 2022

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2022

Costs application in relation to Appeal Ref: APP/L1765/W/22/3299770 Elswick Cottage, Mislingford Road, Swanmore SO32 2QD

- 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 Mrs Carole Evans for a full award of costs against Winchester City Council.
 - The appeal was against the refusal of planning permission for replacement dwelling and works to an existing retained dwelling.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance (PPG) advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant does not reference the PPG specifically, but in essence the application for costs is predicated on the claim that the local planning authority has prevented or delayed development which should clearly have been permitted having regard to its compliance with the development plan.
4. The first reason for refusal refers to an 'additional dwelling' whereas in fact there would be no net increase in the number of units on the site. The officer report adds to the confusion in relation to the status of the former annexe. The reasoning is poorly expressed and slightly incoherent in places, and therefore I can understand the appellant's frustrations in trying to decode the decision.
5. The Council's statement of case also threatens to introduce a new issue by suggesting, by reference to property sales particulars, that the proposed dwelling would be located outside of the curtilage of Elswick Cottage. This evidence is relevant to arguments on character and appearance, and as such it is a material consideration, but it came as a surprise to the appellant and should ideally have been included within the case officer report.
6. The appellant states that the third reason for refusal is unjustified on the basis that the proposal is for a replacement dwelling. However, no nitrates calculations have been provided and there is no other evidence to persuade me that the increase in bedrooms on the site would not have a corresponding impact on the volume of foul water discharge. In matters concerning European

protected sites the decision-maker must adopt a precautionary approach and they must be satisfied, beyond reasonable scientific doubt, that the integrity of the protected sites would be maintained. The appellant has failed to provide the necessary evidence in this regard and as such the Council did not act unreasonably in refusing planning permission.

7. Overall, whilst I consider that there are weaknesses in the Council's officer report and statement of case, these matters fall shy of unreasonable behaviour. I have dismissed the appeal in any event and therefore it follows that the appellant's evidence was a necessary part of the appeal process. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. An award of costs is not justified.

Robert Parker

INSPECTOR