



Costs Decision

Site visit made on 27 July 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2023

Costs application in relation to Appeal Ref: APP/W1715/W/22/3306656 Land rear of Oakfields, Winchester Road, Fair Oak

- 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 Messrs Harding for a partial award of costs against Eastleigh Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 8no. dwellings with parking, landscaping and associated works.
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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. However, the Planning Practice Guidance (PPG) 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 sets out that the Council has behaved unreasonably by failing to produce evidence to substantiate the third reason for refusal relating to highway safety, and by introducing new grounds of appeal which do not form part of the grounds for refusal.
4. I have noted the Council's third reason for refusal. This is specific and relevant to the application. It also clearly states the policies of the development plan which the proposal is considered to conflict with. These reasons, in my view, have been adequately substantiated. Moreover, the planning committee is entitled to take a different view to that of planning and specialist officers.
5. Whilst I have reached a different conclusion to the Council in respect of this third reason for refusal, there is nothing to suggest that the Council was unreasonable in reaching its conclusion. Rather, the application for costs in that respect essentially relates to a disagreement about legitimate matters of planning judgement. I am satisfied that the Council's determination of the application in respect of highway safety is credible and that it was entitled to reach the decision it did.
6. I acknowledge that the Council uses the term overbearing in its appeal statement. This is a term that was not raised within the committee report or decision notice, and I agree with the applicant that the term is not fundamentally linked with the matter of privacy. Whilst this approach is not ideal, it is my view that the term has been misapplied, essentially an error, by

the Council in its discussion of matters of overlooking. In my view this does not amount to the introduction of a genuinely new ground of appeal.

7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

A Price

INSPECTOR