
Costs Decision

Site visit made on 16 May 2016

by Zoe Raygen DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17th June 2016

Costs application in relation to Appeal Ref: APP/B9506/W/15/3139683 Land adj Ganders, Goose Green, Lyndhurst, Hampshire SO43 7DH

- 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 Alan Harrison for a full award of costs against New Forest National Park Authority.
 - The appeal was against the refusal of planning permission to subdivide garden and build new dwelling.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for the costs to incur unnecessary or wasted expense in the appeal process.
 3. The PPG makes it clear that a Council is at risk of an award of costs if it makes vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. Furthermore the Council is at further risk of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by an objective analysis.
 4. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
 5. In this instance I have noted the recommendation of the Council's officers, however the decision is one which is a matter of judgement. The minutes of the Committee meeting dated 20th October 2015 state that members refused the application as they considered that it would put pressure on the area and be an overdevelopment of the site. The Council issued one reason for refusal which built on this assessment of the application and stated that the form and siting of the dwelling would put pressure on the tree planting belt and creating a prominent structure which would harm the character and appearance of the Conservation Area in conflict with Policy CP8 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).
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6. The consideration of whether proposals would preserve or enhance the character or appearance of the Conservation Area is required by S 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990. It was appropriate therefore that the Planning Committee made such an assessment. Furthermore the reason for refusal described two specific areas of concern both in terms of the harm to the Conservation Area and with respect to the contents of Policy CP8.
7. Notwithstanding that the lack of reference to other policies does not necessarily mean that the proposal complies with their contents, Policy CP8 particularly refers to harm caused to the character and local distinctiveness of the area. The other policies quoted by the applicant relate to the specific design elements of proposals. In any case it will be seen from my decision that I have agreed with the Council regarding the potential harm caused to the character and appearance of the Conservation Area. It follows that I am satisfied that the Council raised salient planning grounds for refusing the application and it was able to substantiate its reason for refusal.
8. As a result I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense has not been demonstrated. For this reason an award for costs is therefore not justified.

Zoe Raygen

INSPECTOR