



Costs Decision

Site visit made on 11 April 2018

by Thomas Shields MA DipURP MRTPI

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

Decision date: 06 June 2018

Costs application in relation to Appeal Refs: APP/B9506/W/18/3194635, APP/B9506/Y/18/3194637

Laurel Cottage, Northover Lane, Tiptoe, Lymington, SO41 6FS

- 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 R Cooper for a partial award of costs against the New Forest National Park Authority (NPA).
 - The application is in connection with appeals against the refusal of planning permission and listed building consent for a one and a half storey extension to the rear of the existing cottage.
-

Decision

1. The application for a partial award of costs is refused.

Reasons

2. The PPG¹ advises that irrespective of the outcome of an appeal, 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 appeal process.
3. Awards against a local planning authority may be made in respect of procedural matters, with regard to behaviour in relation to completing the appeal process, or substantive matters relating to the merits of the appeal. This application, made out on three grounds, relates to both procedural and substantive matters which are as follows.
 - (i) *Prolonging the proceedings by introducing a new reason for refusal*
4. This is a procedural matter. The NPA refused a previous application for the single reason set out within the relevant decision notice. It was appealed and dismissed in 2016². However, that appeal procedure is not part of the current "proceedings", that is to say not part of the current appeal process.
5. The subsequent proposal to which this costs decision relates was refused planning permission for two reasons, both as set out within the decision notice. Significantly, the NPA have not introduced a new (further) reason during the

¹ National Planning Practice Guidance (2014)

² APP/B9506/W/15/3138389

lifetime of the current appeal process. Therefore, unreasonable behaviour has not been demonstrated.

(ii) Persisting in objections to a scheme which have previously been found to be acceptable

6. This is a substantive matter. The costs applicant refers to DPD³ Policy DP11 with regard to a dispute between the parties over the proposal's resulting floorspace. It is argued that this was previously found to be acceptable in the earlier appeal.
7. However, for reasons set out at paragraph 15 of the Appeal Decision related to this costs application, the floorspace thresholds set out in Policy DP11 are only relevant if the proposal is "appropriate to the existing dwelling" as set out in the first part of Policy DP11. I found that it was not appropriate. This is consistent with the earlier appeal decision (paragraphs 11, 12, 16 of that Decision) in which it was found that although less than 100m² the extension in that appeal would be "disproportionate" and "overwhelm" the host building.
8. I therefore find that unreasonable behaviour has not been demonstrated.

(iii) Failure to review the case promptly

9. This is a substantive matter. It is argued that the second reason for refusal in relation to Policy DP11 should have been withdrawn. However, there is no evidence before me that the NPA did not review their case promptly following the lodging of the appeal. In any event, for the reasons set out in the Appeal Decision, I have found that the impact of the proposed scale of the extension would be harmful, including to the locally distinctive character of the New Forest, in conflict with Policy DP11.
10. In the earlier appeal the Inspector did not, as argued, find that the loss of historic fabric was acceptable. Footnote 7 to that appeal decision clarifies that the Inspector did not assess the loss of historic fabric in detail. The current proposal was assessed on its own planning merits and was also subject of an application for listed building consent. As set out at paragraph 14 of the Appeal Decision I found that the loss of historic fabric would be unjustified.
11. Consequently, I find that unreasonable behaviour has not been demonstrated.
12. For all the above reasons I find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated.

Thomas Shields

INSPECTOR

³ New Forest National Park Core Strategy and Development Management Policies Development Plan Document (2010)