
Costs Decision

Site visit made on 26 September 2018

by Rory MacLeod BA MRTPI

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

Decision date: 08 November 2018

**Costs application in relation to Appeal Ref: APP/B9506/W/18/3200656
The Yews, Southampton Road, Cadnam, Southampton, Hampshire
SO40 2NG**

- 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 H Cooper for a full award of costs against New Forest National Park Authority.
 - The appeal was against the refusal of planning permission for construction of a new building for B1 purposes together with cycle store and associated parking.
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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, 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 is seeking a full award of costs against the Council in relation to alleged unreasonable behaviour in failing to provide a statement of case to defend its position. PPG indicates that local planning authorities will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate each reason for refusal. In this instance, the Council's case has had to be considered just in relation to the Officer Report at the application stage as no appeal statement has been prepared.
4. Whilst it is evident from the main decision that I have disagreed with the Council's reasons for refusing permission, the Officer Report nonetheless sets out an assessment of the indicated harm and how this would conflict with relevant adopted planning policies. There is a recital of the requirements of key policies DP16 and DP17 into the principle of the development and a finding that increased floor area and activity levels would result in harm to the operation of the site contrary to these policy requirements. Sufficient evidence was presented for the appellant to be clear on the Council's main concerns for the submission of the appeal.
5. In relation to the effect of the development on the protected oak tree, the Council was entitled to not accept the favourable comment in an email from the tree officer as a consultee on the proposal, just as with other internal consultees. The building would still be sited just within the root protection area

of the oak tree in its revised siting, and it is a matter of planning judgement whether the proposal would still adversely affect the tree.

6. In relation to the claim on procedural matters, I sympathise with the applicant's frustrations over the delays in the Council's determination of the planning application, but PPG states that "*costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding*".¹ It is regrettable that the Council did not submit an appeal statement when the response on its appeal questionnaire indicated that it would do so, but this has not resulted in undue delay in processing the appeal.

Conclusion

7. Although I have reached a different conclusion to the Council on the planning merits of the case, this does not mean that the Council has acted unreasonably in substantiating its reasoning only in the Officer Report. There has not been undue delay by the Council in responding to the appeal. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated.

Rory MacLeod

INSPECTOR

¹ PPG Paragraph 033 Reference ID: 16-033-20140306