

Costs Decision

Site visit made on 26 July 2016

by Beverley Doward BSc BTP MRTPI

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

Decision date: 20 September 2016

**Costs application in relation to Appeal Ref: APP/N1730/W/16/3146796
Land adjacent to Rose Cottage, The Hurst, Winchfield, Hampshire,
RG27 8DF**

- 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 G and J Goddard for a full award of costs against Hart District Council.
 - The appeal was against the refusal of planning permission for the erection of a two bedroom cottage with associated parking.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and this has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. It also indicates that costs can only be awarded in relation to unnecessary or wasted costs at the appeal, although behaviour and actions at the time of the planning application may have a bearing on a costs application
 3. The Council's Delegated Report indicates that, in the case of the appeal proposal unlike the scheme proposed in a previous planning application, its Conservation Officer considered that the proposed dwelling would be well designed and proportioned and therefore raised no objection in relation to its effect on the setting of the adjacent listed building. The report indicates that having regard to this advice therefore the proposal would not harm the setting of the listed building. However, the report also assesses the appeal proposal in relation to other aspects of the previous reason for refusal and explains why, despite the amendments, it was considered that it would still be harmful to the character and appearance of the area. In doing so the report references relevant local and national planning policy.
 4. Assessing the effect of a proposal on the character and appearance of an area is largely a subjective assessment which often comes down to a finely balanced planning judgement. For the reasons set out in my decision, I agree with the Council in this instance. The Council produced a credible appeal statement in defence of its stance on the planning merits. It showed reasonable planning grounds and provided relevant evidence to substantiate its first reason for refusal and to support its decision.
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5. As indicated in my decision it would seem to me that the appeal site would not fall within the definition of previously developed land as set out within the Framework. Therefore, I am not persuaded that the Council incorrectly interpreted the site in relation to this matter having regard to the relevant case law.
6. The Council's Delegated Report details the need for the scheme to satisfactorily mitigate its impact on the Thames Basin Heaths Special Protection Area (SPA) by reference to the Council's Interim Avoidance Strategy and the relevant development plan policies. It also indicates that the development could make financial contributions towards the Hitches Lane Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) to mitigate the recreational pressure on the SPA.
7. The appellants did not dispute this at the time and indicated that they were willing to enter into an appropriate legal agreement to provide the necessary financial contributions towards the mitigation measures. However, no such agreement was in place when the Council considered the planning application. Therefore, I consider that it had no other option but to refuse the planning application on the grounds set out in its second reason for refusal. Accordingly, I consider that the Council did not act unreasonably in this respect and that therefore an appeal would not have been avoided.
8. As indicated in my decision, since the Council's consideration of the planning application there were various changes in circumstances with regard to the issue of mitigation in relation to the SPA. These included an indication from the Council that since the submission of the initial appeal documentation the Hitches Lane SANG in its ownership was at capacity. The evidence indicates that the appellants were informed of the likely lack of capacity at the Hitches Lane SANG, as well as being informed that the position was being checked to ensure it was correct after the appeal had been submitted and when they submitted the form to the Council showing their intent to mitigate the impact on the SPA through this SANG, albeit that there appear to have been errors on the form which, in any event, meant that the Council could not have accepted it at that point.
9. The appellants were subsequently informed at a meeting with Council Officers some two weeks later that the SANG capacity at Hitches Lane had been checked and that there was a lack of capacity. Accordingly, I am satisfied that the Council did not unduly delay in informing the appellants of the position in relation to the capacity of the Hitches Lane SANG.
10. It appears from the evidence that the Council did accept a form which indicated an intent to mitigate the impact of another development on the SPA through the Hitches Lane SANG on the same date that it confirmed a lack of capacity to the appellants. Whilst on the face of it this would appear to be somewhat inconsistent behaviour by the Council I am not persuaded that its actions in this respect have caused the appellants to incur any unnecessary or wasted expense in the appeal process arising from this.
11. For the reasons given above therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Beverley Doward INSPECTOR