
Costs Decision

Site visit made on 31 January 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 23 February 2017

Costs application in relation to Appeal Ref: APP/B1740/W/16/3149862 Oakwood, 7 Rookes Lane, Lymington, Hampshire SO41 8FP

- 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 Miss V Hemsley for a full award of costs against New Forest District Council.
 - The appeal was against the refusal of planning permission for "sever land to the front of 7 Rookes Lane and erect detached dwelling with access from Rookes Lane".
-

Decision

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

Reasons

2. The Planning Practice Guidance 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 considers that the Council has acted unreasonably by delaying development which should clearly have been permitted as it accords with the development plan and national policy. Policy CS2 of the Core Strategy¹ is a generic policy which is concerned with design quality. The policy requires all new development to contribute positively to local distinctiveness and sense of place, being appropriate and sympathetic to its setting in terms of scale, height, density, layout, appearance, materials, and its relationship to adjoining buildings and landscape features, and shall not cause unacceptable effects by reason of visual intrusion, overlooking, shading, noise, light pollution or other adverse impact on local character and amenities.
4. It is clear from the Committee Report that the Council assessed the proposal against this policy and conclusions were reached in relation to the policy's detailed requirements. The Council considered that the development would fail to comply with the policy because it would represent a poor form of development, out of character with the recognised spatial qualities of the area and would not contribute positively to the local distinctiveness of the area. The Report contained the reasoning behind this conclusion; in particular concerns about the plot size and siting of the development were explained. Although I have found that the development would be acceptable in respect of its effect of the character and appearance of the area, I do not consider that the Council's arguments were without merit or foundation.

¹ New Forest District Council Local Development Framework: Core Strategy (adopted 2009)

5. Furthermore, it is considered that the Council has made vague, generalised and inaccurate assertions which are unsupported by objective analysis. The reason for refusal states that the dwelling is uncharacteristically large for the size of the plot. Evidence was submitted to support this argument and the Council provided an objective analysis of footprint to plot ratios along with density calculations.
6. The reason for refusal stated that the development was unneighbourly. The refusal was clearly based on the effect of the development on the character and appearance of the area as opposed to its effect on the living conditions of adjoining occupiers. The unneighbourly reference is in relation to the proposed siting of the house and its relationship to adjoining buildings and landscape features. I do not consider that this is at odds with the Council's finding that the living conditions of the adjoining occupiers would not be materially affected. The Council's concerns about the hedge are valid given the proximity of the proposed house, and the policy requirement to consider the effects of development on adjoining landscape features. Overall, I do not consider that the Council has made vague, generalised or inaccurate assertions.
7. Consequently, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is, therefore, not justified.

Debbie Moore

Inspector