
Costs Decision

Site visit made on 22 February 2017

by JP Sargent BA(Hons) MA MRTPI

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

Decision date: 17 March 2017

Costs application in relation to Appeal Ref: APP/P2114/W/16/3152692 The Paddocks, Morton Road, Brading, Isle of Wight PO36 0BJ

- 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 S Lucy for a full award of costs against Isle of Wight Council.
 - The appeal was against the refusal of planning permission for a new dwelling and turning.
-

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. As stated in my decision on the appeal, the tests given in the *National Planning Policy Framework* (the Framework) that are to be undertaken in relation to cases in flood zones are described as 'strict' in the *Planning Practice Guidance*, and where those tests are not met new development should not be allowed.
 4. I have no basis to consider there was an 'in principle' objection to this scheme. Rather, to my mind the Council has demonstrated that the proposed dwelling would be in Flood Zones 2 and 3, and so has therefore turned to consider the Appellant's Sequential Test. Like the Council I have reservations about the robustness of that Test. As a result I consider it was appropriate for the Council to find the Test failed to show there were no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. It therefore follows it was reasonable for it to conclude the works failed to accord with the relevant tests given in the Framework.
 5. Turning to the matter of inconsistency in relation to the assessment of flooding and flood risk, the Council has given reasonable grounds to show why it found differently on the applications in Newport and Yarmouth when compared to the scheme before me.
 6. Consequently, even taking into account paragraph 187 of the Framework, I consider the Council acted reasonably in its assessment of this proposal in the light of the 'strict' tests laid down in national guidance.
-

Conclusions

7. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the *Planning Practice Guidance*, has not been demonstrated.

J P Sargent

INSPECTOR