

Costs Decision

Site visit made on 16 March 2017

by Ray Wright BA(Hons) DipTP MRTPI

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

Decision date: 3 April 2017

Costs application in relation to Appeal Ref: APP/B1740/D/16/3164529 4 Fullerton Road, Pennington, Lymington SO41 9JN

- 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 Neil Miller for a full award of costs against New Forest District Council.
 - The appeal was made against the refusal of planning permission for a 'single storey rear extension and flat roof. Roof conversion with 3 rear flat roof dormers, 2 front flat roof dormers and one front roof light. Flat roof porch.'
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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. In this case the appellant considers that the Council's decision to refuse planning permission for the development, the subject of this appeal, was unreasonable and the consequent appeal should not have been required.
4. This application for costs is principally made on the basis that the Council's 'Planning Development Control Committee' refused the planning application, the subject of this appeal, contrary to their officer's recommendation, without due consideration of the past history of the site, and without valid reasons.
5. I note the appellant strongly disagrees with the Councillors' assessment and subsequent decision. However, planning authorities are not bound to accept the recommendations of their officers, although if that advice is not followed, they will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support their decision.
6. An earlier appeal decision¹ granted permission for an alternative scheme, which involved the raising of the roof at the property and the installation of dormers.

¹ Appeal reference APP/B1740/D/15/3035893.

In the circumstances, I do not consider it unreasonable for the Council to compare the proposed development, with that previously granted, and to make an assessment of the differences. Their decision, related to the visual impact of the development, as proposed to be amended, and the effect it would have on this particular site and the character and appearance of the wider area in general, together with the impact on the living conditions of nearby occupiers.

7. Consideration of these issues involves a matter of judgement, and in such cases it is inevitable that opinions will vary. Where the outcome of an appeal turns on the assessment of such issues an award of costs is unlikely to be justified if realistic and specific evidence is provided.
8. In the appeal the Council rely on their decision letter, and the Committee minutes. Although succinct these documents clearly indicate Councillors took account of the earlier appeal and set out the Council's concerns regarding the current scheme. In their decision the Council also referred to relevant sections of the Framework² and their up to date policy on 'design quality' within their adopted Core Strategy³.
9. In this case, I consider that the Council, through the documents set out above, did provide sufficient information to support its assessment and decision.
10. Overall, in my view, the Council's concerns were legitimately raised, detailed and supported. Consequently their actions fall within the bounds of reasonable conduct.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Ray Wright

INSPECTOR

² The National Planning Policy Framework.

³ The New Forest District Council Core Strategy – 'New Forest District outside the National Park' 2009.