

Costs Decision

Site visit made on 20 June 2017

by Mr C J Tivey BSc (Hons) BPI MRTPI

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

Decision date: 10 July 2017

Costs application in relation to Appeal Ref: APP/W1715/D/17/3173487 Land at 9 Nordik Gardens, Hedge End SO30 0LQ

- 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 Dan Morant for a full award of costs against Eastleigh Borough Council.
 - The appeal was against the refusal of planning permission for a single storey side extension, new loft accommodation (including raising the ridge line) and alterations to the existing fenestration.
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Decision

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

Reasons

2. The 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 PPG states that awards against a Local Planning Authority may be either procedural or substantive.
4. Whilst I have found in favour of the applicant in respect of the appeal, this was an on-balance decision having reviewed the Council's documentation pursuant to the appeal. I consider that the two reasons for refusal imposed upon the decision notice by the Council were precise, and it clearly presented evidence to demonstrate why, in their view, the appeal proposal was unacceptable in respect of impacts upon the character and appearance of the area, and its effect upon the living conditions of the occupants of 8 Nordik Gardens.
5. I accept that the Council maintained a relatively narrow scope when assessing the context of the appeal site, limiting this to the immediately adjacent bungalows within Nordik Gardens, but nonetheless the proposal would give rise to a change to the character and appearance of the street scene, notwithstanding the fact that I found in my appeal decision that this was not material.
6. Furthermore, the Officer Report is quite detailed in its assessment of the relevant material considerations appertaining to the living conditions of the occupiers of surrounding residential properties and concluded that the key and

only issue was that of the effect of the proposal upon the outlook from the rear of no.8. Simply because I have found in the applicant's favour in respect of the appeal does not mean that an award of costs should automatically follow.

7. In addition it is quite clear from reading the Officer Report precisely which aspects of the Eastleigh Borough Local Plan Review (EBLPR) Policy 59.BE were relevant to the issue in hand and this helps to substantiate its reasons for refusal. I have not been made aware that the applicant has sought to overcome the reasons for refusal on the decision notice that was before me and, whilst it was his prerogative not to seek pre-application planning advice from the Council, he was not unfettered from doing so.
8. Indeed the Council explains that in consideration of the application that they considered that there wasn't a way forward with the current scheme; and that they do not seek to encourage an applicant to significantly amend plans if, in their view, a simple solution to their concerns cannot be clearly identified. I see this as a very reasonable approach.
9. Notwithstanding this, the Council highlights that during the course of the processing of the planning application that they did accept amended plans that altered the fenestration and which allayed some of their concerns with regard to overlooking of neighbouring properties, thereby reducing the number of reasons for refusal imposed on the decision notice. This to me demonstrates that the Council was largely working in a proactive manner with the applicant. I also fail to understand the applicant's reasoning that it should not require an Inspector to undertake a site inspection, in order for the Borough Council's concerns to be appreciated, as I could only fully understand the matters appertaining to the case from carrying out a visit.
10. I consider that the Council's reasons for refusal were precise and substantiated and, therefore, I find that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for a full award of costs is therefore refused.

C J Tivey

INSPECTOR