
Costs Decision

Site visit made on 7 August 2017

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 25 September 2017

Costs application in relation to Appeal Ref: APP/B9506/D/17/3176443 Boundway Gate, Boundway Hill, Sway, Lymington SO41 6EN

- 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 & Mrs A walker for a full award of costs against the New Forest National Park Authority.
 - The appeal was against the refusal of planning permission for a replacement summerhouse
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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. In this regard the costs application refers to the PPG's advice that '*vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis*' is an example of the type of behaviour that may give rise to an award of costs against a local planning authority.
4. The NPA's view was that the appeal proposal, comprising a summerhouse with 0.5sqm additional floor area and a 0.8m increase in ridge height compared to the existing building, merited the same reason for refusal as an earlier application for both a larger replacement summerhouse and a garage to the front of the dwelling. This is despite the fact that the appeal application omitted the garage (as permission had been granted for a garage at the side of the dwelling) and was then amended to reduce the size of the replacement summerhouse.
5. That said, there is ostensibly some procedural logic in the use of the same refusal reason wording on the basis that in the NPA's view the applicant had failed to overcome the previous reason for refusal. I also consider that the NPA was entitled to refer to the Sway Village Design Statement as a material consideration in this case and that paragraph 11.5 of the Officer's report does explain the local planning authority's objection to the proposal on a rather more rational and measured basis.

6. On the other hand, in reaching my Decision on the appeal I considered firstly that to effectively equate the proposal with a substantially different earlier scheme was a poor planning judgment and secondly that the weakness of the refusal was exacerbated by the hyperbole in the Notice of Refusal. The terms 'overdevelopment' and 'creeping suburbanisation' are clearly not appropriate for the new building's modest increases to the floor area and height of the existing summerhouse.
7. The merits of the application for costs are therefore finely balanced, but the combination of the factors referred to in paragraph 5 above and the fact that Government policy is for National Parks to have the highest status of protection in relation to landscape and scenic beauty, is in my view just enough for the NPA's refusal of permission to stop short of being 'unreasonable' as defined in the PPG.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Martin Andrews

INSPECTOR