



Costs Decision

Site visit made on 8 May 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2019

Costs application in relation to Appeal Ref: APP/B1740/W/18/3218900 13-14 St Thomas Street, Lymington SO41 9NA

- 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 Andbury Properties Ltd for a full award of costs against New Forest District Council.
- The appeal was against the refusal of planning permission for the erection of 2 dwellings, re-opened pedestrian access from St Thomas St, and associated amenity space.

Decision

1. The application for cost is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. The applicant submits that the Council failed to substantiate its reason for refusal and has given subsequent advice which is inconsistent with its refusal of the planning application.
3. The Council's case is supported by an officer report which is based upon a heritage consultation response. Within this response, the Conservation Officer has provided detailed criticisms of the proposal, and these are reflected within the officer report and the multifaceted reason for refusal. The Council's case uses relevant development plan policy, the National Planning Policy Framework and the Lymington Conservation Area Appraisal. Although I have ultimately disagreed with the Council's position, its reason for refusal was clearly substantiated before and during the appeal.
4. Concern regarding the 'oversailing' of plot boundaries was one of several issues raised in the Council's case in relation to the submitted schemes. It was based on the Council's broader desire to maintain legibility between the two distinct historic plots. The sketch provides an alternative, potential solution to this issue and was clearly intended to 'steer' discussion as opposed to prescribe an alternative scheme. As such, it does not signify any substantive inconsistency in the Council's approach in relation to the appeal scheme.

Conclusion

5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Matthew Jones

INSPECTOR