



Costs Decisions

Site visit made on 17 September 2019

by J Bowyer BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2019

Costs Application A in relation to Appeal Ref: APP/M1710/W/19/3232768 Land East of 19 Avenue Close, Liphook GU30 7QE

- 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 Maytree Investment Properties Ltd for a full award of costs against East Hampshire District Council.
 - The appeal was against the refusal of planning permission for two semi-detached dwellings.
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Costs Application B in relation to Appeal Ref: APP/M1710/W/19/3232769 Land East of 19 Avenue Close, Liphook GU30 7QE

- 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 Maytree Investment Properties Ltd for a full award of costs against East Hampshire District Council.
 - The appeal was against the refusal of planning permission for the erection of one new two-bedroom dwelling and one new three-bedroom dwelling together with associated works.
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Decisions

Costs Application A - Appeal Ref: APP/M1710/W/19/3232768

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

Costs Application B – Appeal Ref: APP/M1710/W/19/3232769

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

Procedural Matter

3. As set out above there are two costs applications relating to this site. They relate to two separate planning applications which differ only in the detail of the layout and design of the proposed development. I have considered each proposal on its individual planning merits. However, to avoid duplication I have dealt with both cost applications in this single costs decision letter.

Reasons

4. The Planning Practice Guidance (the 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.

5. It goes on to explain that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to procedural matters or to the substance of the matter under appeal. Examples given of unreasonable behaviour by local planning authorities include preventing or delaying development which should be permitted, failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposals impact which are unsupported by any objective analysis and refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in the appeal being avoided altogether.
6. I have been provided with copies of pre-application advice correspondence from the Council which indicates that a proposal of two detached properties re-orientated to face 19 Avenue Close would be an improvement on initial proposals put forward. A preference is expressed within this response for a pair of semi-detached dwellings, however by my reading there is nothing in the response which confirms that such a proposal would comply with relevant policies and guidance. Furthermore, while no specific concerns were highlighted, it is apparent that this preference was expressed in the absence of plans or details of any such proposal which would have enabled the Council to more comprehensively assess and advise on the impacts of such a development. While it would have been open to the applicant to submit detailed proposals for semi-detached dwellings for further advice, this did not happen and in any event the application as initially submitted to the Council proposed two detached dwellings.
7. While amended plans were later submitted revising the scheme to two semi-detached dwellings, there is nothing in the evidence that I have been provided to indicate that the Council offered clear support for development of the form eventually refused on the site, and I do not find that the Council behaved unreasonably in reaching the conclusions that it did once it was able to consider the proposals in full.
8. The scheme which is the subject of Costs Application A included a reason for refusal on highways grounds. I note that the Council were unwilling to accept amended drawings to provide a passing place which could have addressed this reason. However, the passing place would be located on land which was not included within the boundary of the site subject to Costs Application A. I have nothing to indicate that the Council were provided with evidence to demonstrate the appellant's control of this land, or to show that this could be delivered. Furthermore, given the Council's concerns over other elements of the scheme I do not find that it was unreasonable to not seek amended boundary plans which would have necessitated further consultation and delay to the determination of the application. In any event, this reason for refusal was overcome in the later scheme which is the subject of Costs Application B and it has not been argued that this led to any wasted expense in preparing for the appeal.
9. The first reason for refusal of each planning application refers to a lack of space for landscaping. The Council's officer report on the second application (Application B) acknowledges that the Landscape Officer had not provided comments but goes on to explain why this second proposal was considered to be contrary to policies requiring consideration for the space around buildings and provision of space for landscaping. This provides a reasonable basis for the

reference to landscaping within the reason for refusal of permission, and its inclusion in the absence of comments from a Landscape Officer does not constitute unreasonable behaviour.

10. I appreciate that following refusal of the first application, the applicant made revisions as part of a second application seeking to overcome the reasons given for this refusal. While this subsequent application was also refused, my review of the Council's reports for both applications does not suggest that there was any failure to assess the later proposal objectively. The report on this second application clearly refers to the amendments made to the scheme. It goes on to explain clearly why the development as amended is still considered to conflict with relevant policies and offers precise reasons for refusal.
11. The applicant suggests that reference to the proposed dwellings being somewhat overbearing to neighbours fronting Headley Road introduced within the report on the second application indicates contradictory analysis. However, I note that the dwellings proposed by the second application would be sited slightly closer to Headley Road than under the first scheme. While the difference is limited, it is not unreasonable for the Council to consider that the impact may therefore differ. In any event, the officer report and reason for refusal are clear that it is only the relationship with Nos 14, 15 and 19 Avenue Close which would be unacceptable, and it has not been shown that this comment within the report to properties on Headley Road has led to any unnecessary or wasted expense.

Conclusion – Costs Applications A and B

12. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, a full award of costs is not justified in respect of costs applications A and B.

J Bowyer

INSPECTOR