
Costs Decision

Site visit made on 10 September 2019

by M Harris BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2019

Costs application in relation to Appeal Ref: APP/J1725/W/19/3227018 2 Heston Walk, Gosport PO12 2RW

- 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 Robert & Shirley Drew & Booth for a full award of costs against Gosport Borough Council.
 - The appeal was against the refusal of planning permission for retention of area of hardstanding adjacent to front garden and retrospective change of use of land to form off-road parking space.
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Decision

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

Reasons

2. I have considered this application for costs in light of the Government's Planning Practice Guidance (PPG). This advises that an award of costs against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. It makes it clear that a local planning authority are required to behave reasonably in relation to both of these elements and provides examples of unreasonable behaviour¹.
3. In relation to substantive behaviour they include unreasonably refusing planning applications and not having regard to relevant matters. In this particular case, the appellant considers that the Council has failed to have regard to a potentially relevant appeal decision and acted unreasonably in reaching a differing conclusion to another statutory body.
4. There were two reasons for refusal and I will consider each in turn.

Reason for refusal 1

5. This reason related to the impact on the character and appearance of the area by virtue of the loss of an area of soft landscaping. The Council concluded that the loss would be harmful to the verdant character and appearance of the area, in a visually prominent location, contrary to Policy LP10 of the Gosport Borough Local Plan (2011 – 2029) (the Local Plan).
6. In contrast, the appellant considered that the Council failed to have regard to a relevant appeal decision at 11 Monroe Close insofar as it considered whether the loss of open space would be harmful or not. In that instance, planning

¹ Paragraph: 047 Reference ID: 16-047-20140306 and Paragraph: 049 Reference ID: 16-049-20140306

permission was granted on appeal. A second example, at 10 Monroe Close, has been cited by the appellant in their costs applicant response to the Council.

7. I agree with the Council that the cited appeal decision is materially different to the proposals, both in respect of the surroundings of the site and the proposed development. I also consider that the second example is materially different to the appeal proposal.
8. The Council were entirely justified in reaching their conclusion and to consider the application on its own merits and as such their behaviour in this regard was not unreasonable.

Reason for refusal 2

9. The second reason for refusal is concerned with the impact on the safe and efficient operation of the adjacent highway and the resultant conflict with Policy LP23 of the Local Plan. The Council reached this conclusion on an assessment of the local circumstances, having had regard to the consultee response of the Local Highway Authority.
10. I acknowledge the appellant's position in respect of the proposed dropped kerb previously being approved by Hampshire County Council but subsequently refused by the Local Planning Authority. However, the original approval was clear insofar as that decision did not represent a planning approval.
11. The Council's reason for refusal makes no specific reference to the dropped kerb. Their costs response acknowledges the appellant's position that it would be permitted development. Instead, the refusal focused on the impacts that would arise from vehicles using the proposed parking space. Specifically, this considered the manoeuvring that would be necessary, including potentially over the area of landscaped public open space, and the material planning consideration arising in respect of potential highway safety matters.
12. The Council were entirely justified in the conclusion reached having had regard to planning policy and the comments of statutory consultees. For this reason, there has been no substantive unreasonable behaviour.

Conclusion

13. In light of the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is not justified.

M Harris

INSPECTOR