
Costs Decision

Site visit made on 11 February 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Costs application in relation to Appeal Ref: APP/B9506/D/19/3239771 Forest Way, Lyndhurst, Landford, Wiltshire SP5 2AJ

- 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 C Marshall for a full award of costs against New Forest National Park Authority.
 - The appeal was against the refusal of the Authority to grant planning permission for alterations and extension.
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Decision

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

Reasons

2. The National 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 or wasted expense in the appeal process.
3. The National Planning Policy Framework (the Framework) at paragraph 39 encourages early engagement, which has the potential to improve the efficiency and effectiveness of the planning application system for all parties. It goes on to say that good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.
4. In this case, the applicant states that positive pre-application advice from the Authority's case officer was received, indicating that a rear lean-to extension could be counted as part of the existing dwelling's floorspace. This then led the applicant to prepare an application based on the advice received. However, the Authority's decision excluded the rear lean-to extension from the floorspace calculations. This, in the applicant's view was fundamental to the scheme being refused.
5. Notwithstanding this, I have not been presented with details of any pre-application submissions either from the applicant or the Authority, either in the form of an initial written request by the applicant, a formal written response by the Authority and on what the advice was based on.
6. Nevertheless, I acknowledge that the briefing note to the Parish Council prepared by the case officer and dated 2 May 2019, indicated that it was reasonable to include the lean-to at the rear of the property as habitable space.

Yet, this comment was given during the processing of the application and following its submission. And a change to that position, as was the case when the Council refused the application, would not have been wholly unexpected or unreasonable, given that the briefing note was caveated with the following:

"The above comments are made without prejudice and represent the initial issues identified by the planning officer following a site visit. The issues identified may not be comprehensive.

The identification of these issues does not take into account any comments made as a result of the consultations undertaken on this planning application. In the light of any comments received the issues identified above will be reviewed before a recommendation drawn up."

7. Therefore whilst, I sympathise with the appellant, if pre-application advice was given, only to be later reneged upon, I have not received any evidence of exchanges between the parties and the details the advice was based on. Moreover, the briefing note from the Authority's case officer to the Parish Council was issued during the processing of the application and came after the application was prepared and submitted by the applicant.
8. The applicant also refers to the previous appeal decision¹ at the site, and the Inspector's comments therein. However, the Authority's decision preceded the previous appeal decision and I have not had regard to this in my assessment of this costs application.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, an award for costs is therefore not justified.

R. E. Jones

INSPECTOR

¹ APP/B9506/D/19/3229804