



Costs Decision

Site visit made on 27 May 2020

by L McKay MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 30th June 2020.

Costs application in relation to Appeal Ref: APP/M1710/W/19/3238621 Shrover Lodge, Anmore Lane, Horndean, Waterlooville PO7 6HN

- 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 Ms Donna Maplesden for a full award of costs against East Hampshire District Council.
 - The appeal was against the refusal of planning permission for temporary stationing of two storage containers for 3 years.
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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. The applicant contends that the Council's officers misdirected themselves by according weight to previous appeals relating to lawful development certificates; that the Council's contention that the land on which the containers are situated does not form part of the same planning unit as Shrover Lodge had no foundation; and that the advice of the Council's Landscape Architect was put aside. The applicant considers that planning permission should have been granted and that they should not therefore have been obliged to incur the costs of the appeal.
4. The PPG sets out that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
5. The appellant's description of the items stored in the containers included storage of domestic items. Therefore, it was not unreasonable for the Council to consider whether the appellant's storage needs could be met on land associated with the dwelling. It was therefore relevant for the Council to consider whether the appeal site was part of the curtilage of the dwelling or was used for purposes incidental to it when assessing whether there was a genuine and proven need for the development. The previous applications and

appeals in relation to lawful development certificates were part of the evidence available to the Council in this regard. The PPG sets out that it is for the decision maker to decide what weight is to be given to the material considerations in each case¹. It was not therefore unreasonable for the Council to afford weight to the planning history of the site when exercising its planning judgement.

6. The Council's reasoning in respect of the extent of the planning unit is only briefly set out and does not have regard to land ownership. However, the courts have held that ownership is not the only factor relevant to identification of a planning unit. Therefore, the appellant's reliance on a single land registry title for the appeal site, wider field and Shrover Lodge is not necessarily determinative of whether they form a single planning unit or not. In any event, I have found that whether or not the appeal site and Shrover Lodge form part of the same planning unit, no genuine and proven need has been demonstrated for the two containers.
7. The Council also identified that the proposal would harm the character and appearance of the area. Therefore, I cannot be certain that planning permission would have been granted if the Council had reached a different conclusion on the extent of the planning unit, or if the application had been referred to the Planning Committee as the applicant desired. I note that the applicant also considers that the Council would likely have refused temporary consent in any event. Therefore, it appears likely that the appeal would still have been made.
8. Turning to the landscape impacts of the development, the Council concluded that these would be relatively minimal, which aligns with the lack of objection from the Council's Landscape Architect. Assessment of a development's effect on landscape is broad in scope and generally goes beyond the consideration of impacts on a small site and its immediate environs. It was not therefore unreasonable for the Council to reach the conclusion that there would be harm to the character and appearance of the area without this equating to wider landscape harm. Indeed, I have reached a similar conclusion. Neither the Council's submissions or its reason for refusal identify conflict with any landscape policy in the development plan. There is therefore no compelling evidence before me that the Council put aside the comments of the Landscape Architect when reaching its decision. Consequently, no unreasonable behaviour has been demonstrated in this regard.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, an award of costs is not justified.

L McKay

INSPECTOR

¹ Paragraph: 009 Reference ID: 21b-009-20140306