



Costs Decision

Site visit made on 13 July 2020

by Robin Buchanan BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2020

Costs application in relation to Appeal Ref: APP/B1740/W/20/3252126 6 Harford Close, Pennington SO41 8EX

- 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 Graham Boyt for a full award of costs against New Forest District Council.
 - The appeal was against the grant subject to conditions of planning permission for a single storey rear extension, first floor extension over new garage/carport, extend rear dormer, pitched roof to front dormers and pitched roof porch.
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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 expense in the appeal process.
3. The application is, essentially, that the Council failed to fully appraise the relationship of the proposed development with No 1 Alison Court, having regard to privacy and views from the proposed rear first floor bedroom window; and, that it did not understand the full facts of the appeal application. Furthermore, that had it done both the Council would not have included this window within condition No 3.
4. The Council has been consistent between its decision on the appeal application and a previous similar proposal by the applicant. It was granted planning permission subject to a similar condition as condition No 3 in the current appeal application, including an equivalent similar window. The reason for the condition was stated in the Officer report and in the Council's decision notice.¹ The applicant referred to this previous planning permission in the appeal application planning application form. The Council acted on the facts of the appeal application, as these were presented to it by the applicant in the application documents. These do not challenge the necessity for the previous condition or refer to any personal circumstances.
5. The applicant, who has also been professionally represented in both planning applications, has therefore had reasonable opportunity to make known to the Council any requirements for the proposed bedroom window or any concerns with the previously applied condition, prior to submitting the current appeal

¹ Council's reference 17/11448.

application — but, on the evidence before me, did not do so. It is the only matter that has led to the current appeal, including that it is in dispute whether the Council's Officer was invited (or asked) to look out of the existing first floor bathroom window during the Council's consideration of the appeal application, ie as a proxy for the view from the proposed bedroom window.

6. However, there is no obligation that the Officer must look out of any window and, in any event, as I saw at my site visit (and as is evident from the appeal documents) the proposed bedroom window would be closer to No 1 Alison Court than the existing bathroom window and would also be closer than the equivalent bedroom window in the previous planning permission. The Officer exercised a planning judgement that condition No 3 met all the relevant tests based on the details of the appeal application, relevant planning history and a site visit, thus was plainly aware of the boundary hedgerow between the appeal site and No 1 Alison Court.
7. It was not therefore unreasonable for the Council to include the proposed bedroom window within condition No 3 to prevent a view out, either due to clear glazing or it being a fully openable window. The Council determined the appeal application in a reasonable manner and has been able to substantiate its reasons for imposing the condition.

Conclusion

8. For the reasons given, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that a full award of costs is not justified, nor is a partial award for the same reasons.

Robin Buchanan

INSPECTOR