



Costs Decision

Site visit made on 29 September 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

Costs application in relation to Appeal Ref: APP/X1735/W/20/3254164 35 Blackthorn Drive, Hayling Island PO11 9PA

- 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 S Edney for a full award of costs against Havant Borough Council.
 - The appeal was against the refusal of planning permission for the 'erection of 1No.1bed detached bungalow with associated parking and access. New parking layout for 35 Blackthorn Drive. (Renewal of planning permission APP/15/01365)' without complying with conditions attached to planning permission Ref APP/18/01276, dated 24 January 2019.
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Decision

1. The application for costs is refused.

Reasons

2. The Planning Practice Guidance¹ (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 expense in the appeal process.
3. The application for a full award of costs was made in writing. The applicant states that the Council has behaved unreasonably in first imposing and then failing to remove condition 10 of the planning permission², on the grounds that it did not impose it on the 2015 approved scheme³ for the same development and it fails to meet the six tests as set out in Paragraph 55 of the National Planning Policy Framework and guidance about the use of conditions as set out in the PPG. The Council's response was made in writing, confirming the challenge.
4. I recognise the need for consistency in terms of decision making. However, notwithstanding the fact that the Council did not remove permitted development rights under the 2015 approved scheme, it was duty bound to consider the matter in regard to its determination of the appeal proposal.
5. It will be seen from my decision that I agree with the Council that, other than in regard to Class E, condition 10 of the planning permission which withdraws certain permitted development rights in regard to Classes A, B and C is both

¹ <https://www.gov.uk/guidance/appeals>

² Reference: APP/18/01276

³ Reference: APP/15/01365

necessary and reasonable in the interests of protecting the living conditions of the occupiers of neighbouring properties.

6. Regarding the removal of Class E permitted development rights, to some extent, the Council's actions have resulted in some additional effort on the part of the applicant. However, in reality, the applicant's case in regard to the main issue has not changed significantly during the appeal process and hence additional expenses incurred as a result of the Council's actions has not been anything more than *de minimis*.
7. I am satisfied that the Council has shown that it was able to substantiate its reason for refusal of the planning permission⁴, which sought removal of condition 10 in its entirety.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Andrew Bremford

INSPECTOR

⁴ Reference: APP/19/01235