
Costs Decision

Site visit made on 26 October 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 06 November 2020

Costs application in relation to Appeal Ref: APP/M1710/W/20/3250413 Hill Brow, 61 Medstead Road, Beech, Alton GU34 4AE

- 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 David Fazakerley for a full award of costs against East Hampshire District Council.
 - The appeal was against the refusal of planning permission for construction of a three bedroom chalet bungalow with associated access, amenity and parking.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 applicant alleges that the Council was unreasonable in refusing planning permission by failing to have regard to the actual condition of the site and to its existing characteristics at the time the application was determined; failed to produce evidence to substantiate its reason for refusal; and, refused planning permission on a ground capable of being dealt with by the imposition of a planning condition.
4. In terms of the character of the area the Council's officer report describes the Medstead Road frontage as having fairly heavy planting in general with gaps in banks allowing access to properties. Furthermore, in terms of the actual condition of the site it refers at the time of the site visit to the previously existing hedge which is noted to have been removed from the plot frontage, but the grassed bank to the road remains. It is acknowledged that the officer report is somewhat brief in its assessment of the character of the area. However, I do not consider that the Council, at the time it determined the application, failed to have due regard to the actual condition of the site and to its characteristics.
5. The Council's officer report refers to concerns about the loss of part of the roadside bank and vegetation to form the new access and how the new access would further open up the plot frontage. Furthermore, how the bank is an important visual feature in the area. Section 2 of the officer report concludes that the loss of the bank and construction of a new vehicular access, and the

opening up of the plot frontage to incorporate a parking area would harm the character of the area. The 'Conclusion' section of the officer report explains how the proposal would replace a grassed bank area on the existing frontage with a parking area, which would adversely affect the character and appearance of the area. Thus, I am satisfied that the reason for refusal of planning permission has been adequately substantiated by the Council in its officer report.

6. It is acknowledged that the reason for refusal of planning permission includes reference to achieving the required sight lines at the new access. In this regard, the Council failed to provide any substantive evidence to demonstrate, in this case, why there would be a requirement to remove hedgerow and/or alter existing banks as part of the provision of visibility splays. To some extent, the Council's inclusion of this point within its decision notice has resulted in some additional effort on the part of the applicant. However, in reality, the applicant's case in regard to the character and appearance 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. As detailed in my appeal decision, notwithstanding the proposed planting, I have found that the proposal would not be acceptable in terms of the character and appearance of the area. Thus, in this case, the imposition of a landscape condition would not ensure that otherwise unacceptable development could be made acceptable.
8. As a result it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Andrew Bremford

INSPECTOR