
Costs Decision

Site visit made on 9 February 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2021

Costs application in relation to Appeal Ref: APP/A1720/W/20/3262773 87 Highfield Avenue, Fareham PO14 1HX

- 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 John Warner for an award of costs against Fareham Borough Council.
 - The appeal was against the refusal of planning permission for single storey self-contained annex to the side and rear, for dwelling for 2 family members.
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Decision

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

Reasons

2. Paragraph 028 of the Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal.
4. Paragraph 047 of the Guidance states that examples of unreasonable behaviour by local planning authorities which may give rise to a procedural award of costs include lack of co-operation with the other party or parties, delay in providing information or other failure to adhere to deadlines, and providing information that is shown to be manifestly inaccurate or untrue.
5. Paragraph 049 of the Guidance confirms that types of behaviour that may give rise to a substantive award of costs against a local planning authority include vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. The applicant is seeking an award of costs on these procedural and substantive grounds.
6. The applicant considers that, procedurally, the Council has behaved unreasonably by sending the appeal questionnaire and associated documents late. Whilst the appeal questionnaire was late, in the absence of evidence to the contrary, and having regard to the on-going situation in respect of Covid-19, I do not find that this has constituted unreasonable behaviour. The

- submitted statement of case was turned away, and I was not, therefore, party to its contents, and it did not form part of my determination of the appeal.
7. Furthermore, the appeal comprises a “householder appeal”. In accordance with the *Procedural Guide. Planning Appeals – England* (2019), in response to the appeal submission, the local planning authority is required to complete the appeal questionnaire and provide planning application documents, and there is no opportunity for further representations by other parties. As such, no statement of case was required from the Council, and the Council’s case relies upon the planning application Decision Notice and the Officer Report.
 8. Having regard to an award of costs on substantive grounds, the applicant considers that the Council has provided inaccurate information in respect of the proposal’s failure to accord with Policy DSP46 of the *Fareham Local Plan Part 2: Development Sites and Policies* (2015) by incorrectly referring to criterion (iv) of the Policy, with which the proposal accords. I find that the paragraph of the Officer Report relating to the principle of development clearly sets out how the appeal proposal is considered to accord with criteria i) to iv) of Policy DSP46, and that it fails to accord with criterion v), since this requires conformity with Policy CS17 of the *Fareham Local Development Framework Core Strategy* (2011) in respect of design requirements. The Officer Report paragraph on design/impact on character of the area then goes on to explain how the Council considers the proposal fails to accord with Policy CS17. On this basis, it is logical to assume that the conclusion to this paragraph includes a typographical error in referring to criterion iv) rather than v) of Policy DSP46.
 9. I find that the reasons for refusal as set out in the decision notice are complete, precise, specific and relevant to the application. I find that they have been adequately substantiated by the Council in the Officer Report, which demonstrates why the Council consider that the development would result in harm to the character and appearance of the area, contrary to the objectives of Policies DSP46 and CS17.
 10. Accordingly, I find that the Council was entitled to refuse the application and defend the appeal, and has not acted unreasonably in so doing.
 11. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

S Leonard

INSPECTOR