



Costs Decision

Site visit made on 15 February 2021

by Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2021

Costs application in relation to Appeal Ref: APP/P2114/D/20/3264340 20 Firestone Glade, Wootton PO33 4LH

- 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 and Mrs M Hudson for a full award of costs against Isle of Wight Council.
 - The appeal was against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted. The application sought planning permission for a single storey extension to existing garage (revised scheme).
-

Decision

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

Reasons

2. 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.¹
3. In essence, the applicants consider that the Council has imposed a condition that is not relevant to the development permitted and is not necessary or reasonable, has made vague, generalised or inaccurate assertions about potential impacts and has failed to produce evidence to substantiate its reason for refusal on appeal. PPG indicates that these are circumstances where a local planning authority might be at risk of a substantive award of costs against it.²
4. In my appeal decision I have found that condition No 3 is not relevant to the development permitted by the Council and that it was not necessary or reasonable to have imposed this condition. I also accept that the Council's explanation for imposing the condition, as set out in the two relevant officer reports, is not as clear or precise as it could have been. Nor is it entirely consistent with the reasons for refusal stated in both of the respective decision notices and the Council has had to clarify its position in the appeal through a response to the applicants' costs application.
5. Notwithstanding the above, in making the decision that it did, and in the appeal, I am satisfied that on the evidence before me the Council has nonetheless had due regard to the nature of the appeal site and its

¹ PPG paragraph 16-030-20140306.

² PPG paragraph 16-049-20140306.

surroundings, including the character and appearance of the area and the living conditions of the occupiers of the neighbouring houses. Furthermore, it has considered the potential implications of the exercise of the relevant, specific permitted development rights in question in that context. In addition, it has substantiated its objections in its evidence in the appeal and in its response to the applicants' costs application, including with regard to relevant development plan policy.

6. I appreciate that the applicants consider that they clearly explained why they did not agree with the Council's decision to impose condition No 3 at application stage, and accordingly that the appeal should not have been necessary. However, the Council's decision, and its position in the appeal, is ultimately underpinned by its planning judgement about the possible impact of any potential single or cumulative act of permitted development at the appeal site under Classes A to E. While I have reached different conclusions to the Council in this regard, my appeal decision should not be taken as vindication of the applicants' complaints in its costs application. The Council was entitled to make the planning judgements that it did and my appeal decision does not render the Council's decision to refuse the appeal application, for the reasons that it did, irrational.

Conclusion

7. For the reasons given, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense in the appeal process, as described in 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