



Costs Decision

Site visit made on 15 September 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2021

Costs application in relation to Appeal Ref: APP/B1740/W/21/3277464 23 Mount Avenue, New Milton BH25 6NT

- 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 G Leicester for a full award of costs against New Forest District Council.
 - The appeal was against the refusal of planning permission for demolish existing garage, sever land and erect a detached dwelling with associated access and parking (Revised Scheme).
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Decision

1. The application for 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 or wasted expense in the appeal process. The PPG goes on to state that unreasonable behaviour in the context of an application for an award of costs may be either procedural – relating to the process; or substantive – relating to the issues arising from the merits of the appeal.
3. The applicant indicates that the Council has acted unreasonably and caused wasted expense through refusing the proposal contrary to its officer's recommendations, with a difference of only 3 Planning Committee Members and without sufficient evidence of the anticipated harm outlined in the reason for refusal.
4. The Council indicates that members of the Planning Committee are not bound to accept recommendations of their officers and that its failure to determine like cases in a similar manner could also give rise to an application for costs. The Council highlights that the appeal site was subject of two previous proposals for similar schemes which were refused for similar reasons in respect of the effects on the Monterey Pine tree; a locally distinctive landscape feature.
5. In relation to the reason for refusal, I agree that the members were not bound to accept the professional recommendation of the Planning or Tree Officers where a case could be made to the contrary. That only a small number more Councillors voted against the appeal application rather than in support of it is not suggestive of any procedural unfairness or unreasonableness.
6. The evidence submitted in support of the Council's case is sufficiently clear about the anticipated impacts and the promotion of trees within the revised

National Planning Policy Framework (2021) as important features within the built and natural environment highlights the need to carefully consider the potential effects thereupon. The submitted Arboricultural Assessment and Method Statement indicates that measures could be employed to mitigate the impacts of construction and that no future pressures would be expected from future occupiers, but there is an admission about at least a degree of impact and these aspects can be subject of an element of uncertainty and subjectivity. Whilst I have concurred with the applicant in this particular case, the Council's concerns were still understandable and sufficiently evidenced.

7. Consequently, the Council has not been unreasonable or caused the applicant to incur unnecessary or wasted expense. For these reasons, and having regard to all other matters raised, a full or partial award of costs is therefore not justified.

Hollie Nicholls

INSPECTOR