
Costs Decision

Site visit made on 29 June 2021

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2021

Costs application in relation to Appeal Ref: APP/B1740/W/21/3270416 42 Brockwood, Barton Common Lane, Barton-on-Sea, BH25 5PS

- 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 A J Developments for a full award of costs against New Forest District Council.
 - The appeal was against the refusal of planning permission for demolition of existing dwelling and erection of 4 no 3 bedroom houses with garages 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 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.
3. The applicants state that this is the second time that the scheme has been the subject of an appeal and there are no material reasons to go against that Inspector's conclusions. The reasons for refusal do not stand up to scrutiny and the decision was against the officer recommendation.
4. The Council state that they did acknowledge the previous appeal's conclusions. The Committee were entitled to disagree with the officer's recommendations based on the merits of the proposal and the balance of each issue. The Council's appeal statement substantiates the reasons for refusal and updates the situation.
5. Subsequent to the previous appeal decision on 11 September 2019, the Local Plan was adopted on 6th July 2020. Additionally, the Parish of New Milton Neighbourhood Plan (NP) was emerging at the time of determination. Consequently, the policy basis has greater impetus now.
6. Furthermore, in paragraph 21 of the previous appeal decision, the Inspector notes that the Council was not meeting its 5-year housing land supply requirements. Whereas at the time of the Local Plan adoption they were, and determination was shortly afterwards.
7. Policy NM4 of the NP also notably highlights the importance of gardens: requiring that all development protects open spaces, trees and gardens that contribute to the character of the area.

8. The Council's decision was based on their interpretation of the current policy. Understandably the Council did not want to depart from a Plan adopted only a few months earlier and similarly the NP is very recent.
9. The assessment of the impacts on the character and appearance, including the loss of trees, and the suitability of the access, are matters of judgements rather than being numerically quantifiable. The Committee applied the criteria in the Development Plan policies and came to a view. The policies are open to judgement which is widely acknowledged as a matter for the reader.
10. The Council's appeal statement articulated their objections in considerable detail. Whilst I did not find in their favour, the arguments were rational and cogent.
11. The earlier appeal was dismissed due to the lack of an ecological appraisal. This omission and the need for a subsequently revised application was not a fault of the Council.
12. For the above reasons I conclude that the Council has not acted unreasonably, and that the applicant has not been put to wasted time and expense in pursuing the appeal. Therefore, an award of costs as described in the Planning Practice Guidance is not justified.

John Longmuir

INSPECTOR