
Costs Decision

Site visit made on 30 November 2021

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 07 December 2021

Costs application in relation to Appeal Ref: APP/M1710/W/21/3275675 Farthings, Jubilee Lane, Grayshott, HINDHEAD, GU26 6HQ

- 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 T Brown for a full award of costs against East Hampshire District Council.
 - The appeal was against the refusal of planning permission for demolition of existing garage and erection of new dwelling.
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Decision

1. The application for an award of costs is partially allowed, in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an 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.
3. The applicant suggests that the Council's assessment of the character of the area was not supported by the reality of the site. I note that a decision was reached regarding the proposal's impact on the character of the area that was different to the views expressed by the Council's conservation team. I accept that it can be reasonable to make a decision that does not accord with consultee comments. However, the positive comments of the conservation team, which even suggested that the proposal would enhance this part of the conservation area (CA), were not addressed in the officer report in a manner that could justify coming to a different conclusion.
4. Furthermore, it is not clear why matters of the proposal's impact on the character of the local area and CA were dealt with separately when the appeal site is within the CA. The proposal's impact is limited to a tight urban area. Its impact on the character and appearance of the CA and the area more generally are intrinsically linked.
5. I also note that the officer report stated that the conservation officer's lack of objection, which was actually a position of clear support for the proposal, would not lend any weight in favour of the proposal. Had the views of the conservation team been properly taken into account in the officer's assessment they would have clearly weighed in favour of the proposal.

6. I am therefore of the view that the Council's first reason for refusal is not substantiated as it fails to take proper account of the available evidence and the interrelationship between the CA impact and the impact on the character and appearance of the area more generally. In this respect the Council has behaved unreasonably.
7. The applicant refers to the Council's comments on the visibility of the proposed dwelling from Farthings. The submissions clarify that existing openings that look out in this direction from Farthings would be relocated, however the Council explains in its statement why it considers that this would not be sufficient to mitigate against the harm it has identified. I am satisfied that the Council's officer report and appeal statement is sufficient to substantiate its second refusal reason.
8. Beyond these matters the applicant's costs case is limited to the Council's behaviour during the time that it considered the application and before it made its decision. The PPG is clear that an award of costs must relate to the process by which the Inspector's decision is reached. Discussions between the parties regarding engagement in the pre-application process, the need for a Habitats Regulations Assessment and daylight levels within the proposed dwelling did not form part of either of the Council's refusal reasons. These matters do not relate to the appeal process and cannot therefore be subject to a costs award.
9. I now need to consider whether the unreasonable behaviour I have identified has resulted in unnecessary or wasted expense on the part of the applicant. The applicant has spent time and effort addressing the Council's first reason for refusal. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that East Hampshire District Council shall pay to Mr T Brown, the costs of the appeal proceedings described in the heading of this decision, but limited to those costs incurred in addressing the first refusal reason; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to East Hampshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Tucker

INSPECTOR