



Costs Decision

Site visit made on 29 October 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2024

Costs application in relation to Appeal Ref: APP/B1740/W/24/3338503 Cairns, 12 Langdown Lawn, Hythe, Hampshire SO45 5GR

- 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 Ibex Homes Limited for a full award of costs against New Forest District Council.
 - The appeal was against the refusal of planning permission for construction of 5 residential unit and all associated works.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The appellant's claim for costs relies on that the Council have refused planning permission without foundation.
4. The appellant has provided a link to the video recording of the Planning Committee Meeting, however, Paragraph 9.4.7.1. of the 'Procedural Guide: Planning appeals – England', states that audio or video evidence will not be accepted and that a written summary should be provided. Therefore, I have not viewed the recording of the Planning Committee meeting and my decision on this application for costs is based on the written evidence before me, including the committee minutes.
5. The decision taken at the Council's Planning Committee was different to the officer recommendation. However, it is not unreasonable of itself for Members of a Development Control Committee to take a different view from officers provided such an approach can reasonably be justified and explained, including with evidence where necessary.
6. In regard to the Councils second reason for refusal, it is not disputed that the proposed development would, in combination with other developments, have an adverse effect due to the recreational impacts on European sites. A completed S106 agreement was not provided within the original application and therefore this reason for refusal is justified and supported by relevant planning Policy.

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7. The appellant states that members of the Planning Committee did not undertake a site visit which is not disputed by the Council. The appeal site is not readily visible from public vantage points and therefore, without a site visit it is difficult to understand the sites context, particularly in regard to the character and appearance of the area and its effect on the living conditions of neighbouring occupiers.
 8. It is evident from the written evidence before me that a site visit was not undertaken and the description of the site changes, from the more accurate description provided by the planning officer in the officer report. The context of the appeal site has not been accurately described which demonstrates that the proposed development has not been objectively considered by Members in regard to the effect on the character and appearance of the area.
 9. Furthermore, the impacts on the living conditions of neighbouring occupiers is particularly vague with very little detail being provided within the decision notice and committee minutes as to how the amenity of neighbouring occupiers would be harmed. These reasons for refusal are therefore vague, generalised and are not supported by objective analysis.
 10. I note that the Council's statement of case and response to this costs application suggests that the Council's shortfall in housing land, and the attendant presumption in favour of sustainable development in line with paragraph 11(d) of the National Planning Policy Framework was considered by members. However, there is limited evidence of any discussion of this point by the committee, or of their addressing the balance between any harm arising from the proposed development and the benefits that it would deliver.
 11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

12. 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 New Forest District Council shall pay to Ibex Homes Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the first of the Council's reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to New Forest 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.

D Wilson

INSPECTOR