
Costs Decision

Site visit made on 13 September 2016

by Lesley Coffey BA Hons BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 September 2016

Costs application in relation to Appeal Ref: APP/M3835/D/16/3153316 52 Lamorna Grove, Worthing, BN14 9BJ

- 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 & Mrs Field for a full award of costs against Worthing Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for first floor extension over existing garage and internal alterations to garage.
-

Decision

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

Reasons

2. Irrespective of the outcome of the appeal, costs may only 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 appellants consider that the Council behaved unreasonably in that it did not visit the site or provide the appellants or their agent with an opportunity to discuss its concerns with the trees. The additional cost referred to by the appellants relates to the cost incurred in obtaining an arboricultural report in respect of the trees.
4. The trees concerned are protected by a Tree Preservation Order(TPO), the application form stated that the TPO trees may need to be pruned in order to accommodate the proposed extension. Where a proposal could potentially have an effect on a protected tree, it is usual to submit details of the necessary works, usually in the form of an arboricultural impact assessment which clearly addresses any potential above and below ground conflicts. Although the appellants were professionally represented no such details were provided.
5. The Council is entitled to determine the application on the basis of the submitted information. I appreciate that it could have requested this information at the time of the application, but this would not have avoided the need for an arboricultural report. Therefore the failure of the Council to request this information does not amount to unreasonable behaviour, and the appellants did not incur any unnecessary expense as a consequence.
6. Both the agent and the appellants were notified of the decision to refuse the application shortly before the decision was made. It is evident from the decision notice that the Council considered the issues to be so fundamental

that it was not been possible to negotiate a satisfactory revision to the proposal. In such circumstances proceeding to determine the application without entering into discussions with the appellants does not amount to unreasonable behaviour, or cause the appellants to incur any additional expense.

7. Although the Council's Senior Tree and Landscape Officer did not visit the appeal site in connection with the application, the Council explained that he had inspected the trees twice in connection with applications for tree work and this informed his comments. However, based on the detail in the officer's report it would seem that the site was visited by the case officer who took account of the tree officer's comments. I therefore do not consider the failure of the Tree and Landscape Officer to visit the site constitutes unreasonable behaviour.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Lesley Coffey

INSPECTOR