
Costs Decision

Site visit made on 20 September 2016

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 7th October 2016

Costs application in relation to Appeal Ref: APP/U1430/W/16/3150662 Land rear of Skyscape, Shepherds Way, Fairlight, East Sussex TN35 4BP

- 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 Paul Vidler for a full award of costs against Rother District Council.
 - The appeal was against the refusal of the Council to grant planning permission for a new dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, 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 expense in the appeal process.
 3. The application was a revised proposal following the Council's refusal of a previous scheme. The Council dealt with the revised application in a timely fashion and the officer's report had a table which set out the differences in the dimensions of the current scheme and the one it had previously refused. The report went on to assess the proposal explaining why it was considered unacceptable, even though its previous concerns about overlooking had been addressed. Whilst the outcome was disappointing for the appellant, the Council's decision notice provided adequate and justified reasons for its decision.
 4. Having failed to convince the Council that the scheme was satisfactory the appellants had a choice. They could either appeal the decision or consider further amendments to the proposal and submit a fresh planning application. In choosing to pursue the appeal they did not incur unnecessary expense in presenting their case.
 5. The Council provided evidence to substantiate its reasons for refusing the application during the appeal process. I have considered the proposal afresh having regard to the evidence presented by both parties and representations by third parties and for reasons set out in my decision letter have dismissed the appeal. I am therefore satisfied that the Council acted reasonably throughout the appeal process.
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6. In determining the appeal it is my duty to have regard to planning policy at the time of the decision. The Council's charging regime for securing contributions towards infrastructure in accordance with the Community Infrastructure Levy (CIL) regulations was adopted on 4 April 2016. If I had found the development to be acceptable and allowed the appeal, the proposal would have been liable to the appropriate CIL charge. Even if the Council had acted unreasonably in reaching its decision, this charge is not related to the appeal process and is therefore not recoverable in any application for costs.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is therefore not justified.

Sheila Holden

INSPECTOR