
Costs Decision

Site visit made on 18 August 2016

by Jane Miles BA (Hons) DipTP MRTPI

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

Decision date: 14 October 2016

**Costs application in relation to Appeal Ref: APP/D3830/W/16/3147365
32 Valebridge Road, Burgess Hill, West Sussex RH15 0QY**

- 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 Matt Gorringe for a full award of costs against Mid-Sussex District Council.
- The appeal was against the refusal of the Council to grant planning permission for 'proposed dwelling with parking (resubmission – APP-DM/15/1829)'.

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes that issued on 12 September 2016.

Decision

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

Reasons

2. The *Planning Practice Guidance* (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The costs application stems primarily from the following: the appeal application was considered acceptable and in accordance with relevant policies by planning officers; the grounds for refusal were not determined at the Committee meeting and the subsequent refusal reason does not reflect comments made at that meeting; the refusal reason cites policies which were not mentioned in the Committee Minutes; there were no valid grounds to refuse permission for the scheme, contrary to the presumption in favour of sustainable development in the *National Planning Policy Framework*. A copy of the Committee Minutes is appended to the appellant's statement of case, and extracts from those Minutes are included in the Council's response to this costs application.
4. It is well established that Members are entitled to reach different conclusions from those of their officers, and that is especially applicable in relation to matters requiring a subjective judgement to be made. The effect of a proposed development on the character and appearance of its surroundings is one such matter. Where that is a key issue, as in this case, it follows that there will also be an element of subjective judgement in the subsequent matters of whether or not a proposal accords with relevant planning policies and whether or not it would constitute sustainable development.

5. In this case of a scheme which involves an infill development on rear garden land, the criteria in saved Local Plan Policies B1 and H3 and in Neighbourhood Plan Policy H2 relating to matters of design, character and appearance are all relevant. It is reasonable to expect that Members would be familiar with the two Local Plan Policies (dating from 2004) even though they are not specifically mentioned in the Committee Minutes. There is reference in the Minutes to Members mentioning the development being shoe-horned into the site and concerns about 'infill'. Given the constraints of buildings and other features around the site neither those concerns nor a refusal reason based on such matters (with reference to relevant policies) are unreasonable.
6. I find that to be the case despite the possibility that there may have been some confusion in some Members' minds between the Local and Neighbourhood Plans¹. However, later in the Minutes the Team Leader is recorded as advising that, if Members considered there was a conflict with relevant policy, they would need to be clear which part of the policy the proposal was in conflict with. That is undoubtedly the right approach and it is regrettable that it does not appear to have been taken on board by Members during the course of the meeting. I note also that there is no indication in the Minutes of any discussion on the question of whether or not the proposals constituted sustainable development, in the light of Members' views on impacts in terms of character and appearance and compliance with relevant policies.
7. Even so, and although I have reached a different conclusion in the appeal decision, on balance I find the Council's refusal on the basis of the proposal's impact in terms of character and appearance was not unreasonable. Nor would it be unreasonable in those circumstances to conclude that the harm to the area's character would be sufficient to preclude the proposal according with all three dimensions of sustainable development.
8. The refusal reason also asserts that the cramped nature of the plot would fail to provide a good quality living environment for future occupiers, but this concern is not mentioned at all in the Committee Minutes. Nor is it substantiated in the Council's appeal statement by any detailed analysis of matters such as the relationships that would be created with neighbouring buildings for example. I therefore find this element of the Council's refusal to be unjustified and thus unreasonable. However, given my findings in the previous paragraphs, the absence of this matter from the refusal reason would not have avoided the need for the appeal.
9. Overall therefore I find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated and that an award of costs is not justified.

Jane Miles

INSPECTOR

¹ Despite references in the Minutes to a conflict with *Local Plan* Policy H2, this policy does not feature at all in the Committee report or in the Council's appeal statement, leading me to wonder whether Members actually had in mind Neighbourhood Plan Policy H2