
Costs Decision

Site visit made on 21 February 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 21 March 2017

Costs application in relation to Appeal Ref: APP/D3830/W/16/3160513 Rose Court, North Bank, Hassocks, West Sussex BN6 8JG

- 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 Mrs Helen Ross for a full award of costs against Mid Sussex District Council.
 - The appeal was against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
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Decision

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

Reasons

2. I have considered this application for costs in the light of the Government's Planning Practice Guidance (PPG). This advises that an award of costs against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. It makes clear that a local planning authority is required to behave reasonably in relation to both of these elements in order to avoid an award of costs being made.
 3. In summary, the applicant considers that in refusing the application, the Council behaved unreasonably because the application complied with planning policy and that the Council failed to take into account material considerations she had put forward.
 4. The Council quite properly identified the two reasons why the condition was imposed. It promptly dismissed the shortfall in parking spaces being a reason to sustain the retention of the condition. However, turning to the second reason, it did not substantiate how the removal of the condition would cause such significant harm, or indeed any harm at all, to the amenities of the other occupiers in the block that it would be in conflict with the development plan. This was unreasonable behaviour.
 5. Though I disagreed with the Council's conclusions regarding the loss of sheltered accommodation and the availability of accommodation for the elderly, its considerations against the Draft Housing and Economic Development Needs Assessment, were sufficiently clear and well-founded. That three flats of the twelve in the block were already permitted with lower age or no age restrictions on occupancy does not compel the Council to take a different stance; it had already referred to the balance of restricted and unrestricted
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occupancies in the block. Its reasoning and conclusion on this issue was not unreasonable.

6. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national policy, and other material considerations, the removal of the condition should reasonably have been accepted. The PPG gives a number of examples of unreasonable behaviour with regard to the substance of the matter. These include preventing development which should clearly be permitted, and failure to produce evidence to substantiate each reason for refusal on appeal.
7. The refusal of planning permission in so far as part of its reasoning relied on the effect of the removal of the condition on the living conditions of the other occupiers in Rose Court therefore constitutes unreasonable behaviour, contrary to the guidance in the PPG, which has contributed to leading the appellant to the unnecessary expense of making the appeal. 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

8. 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 Mid Sussex District Council shall pay to Mrs Helen Ross, the costs of the appeal proceedings described in the heading of this decision limited to the issue of the effect of the removal of the condition on the living conditions of the other occupiers in Rose Court.
9. The applicant is now invited to submit to Mid Sussex 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.

Patrick Whelan

INSPECTOR