

Costs Decision

Site visit made on 3 April 2017

by Clive Tokley MRTPI

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

Decision date: 27th April 2017

Costs application in relation to Appeal Ref: APP/D3830/D/16/3165129 Whitesands, Lewes Road, Lindfield, Haywards Heath, RH16 2LQ.

- 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 Nicholas Drage for a full award of costs against Mid Sussex District Council.
 - The appeal was made against the refusal of planning permission for a development described as side and rear two storey extension.
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Decision

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

Reasons

2. Guidance on costs appears in Planning Practice Guidance (the Guidance). The Guidance indicates that costs may be awarded when a party has behaved unreasonably and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant submits that the Council has acted unreasonably for two reasons; firstly that it failed to address relevant issues (including previous approvals) and secondly that it placed too much weight on the comments of the Parish Council.

The relevant issues

4. The refusal reason indicates that the Council had two concerns about the proposal; firstly it was concerned about the effect of the proposal on the character and appearance of the area and secondly its effect on the setting of the adjacent Conservation Area (the CA).
 5. The officer report considers these issues in a single paragraph. The report sets out the nature of the proposal and comments on its effect on the street scene with specific reference to the space between the proposal and the boundary fence and pavement. The report goes on to consider the effect of the proposal on views into and out of the CA. In the following paragraph it acknowledges the unimplemented permission for an extension at Noahs Ark Cottage.
 6. I disagree with the Council's conclusions and decision but I consider that the officer report demonstrates that the Council addressed the material considerations that were of relevance to the determination of the application,
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including previous planning decisions.

7. The appellant criticises the report for failing to indicate why the extension would not comply with the development plan policies whereas the recently permitted fence did. However as regards its nature, height and bulk the proposed extension was significantly different from the fence and when judged against the same policies I consider that it was not unreasonable for the Council to reach a different conclusion as to its effect.
8. The appellant refers to correspondence concerning a potential further reduction in the size of the proposal and argues that a further small reduction would have resulted in the granting of permission. When dealing with incremental changes a point may eventually be reached when a proposal may be considered acceptable. In this case the Council's view was that that point had not been reached. The Council was required to make its decision based on the proposal before it and, as I indicate above, I consider that the Council had proper regard to the material planning considerations when reaching its conclusion.

Parish Council comments

9. The views expressed in the officer report as regards the scale and bulk of the proposal are consistent with the Parish Council comments; however the report develops the issue to include reference to the CA. The report disagrees with the Parish Council's view on the rendered walls. In my experience it is not unusual to find similar views expressed in Parish Council representations and officer reports; however a coincidence of view does not demonstrate that too much emphasis has been placed on Parish Council comments.
10. I consider that the officer report indicates that the planning officer properly took account of the views of the Parish Council but I have seen no evidence to demonstrate that the report attaches too much weight to the Parish Council representation. In this respect the Council has not acted unreasonably.

Conclusion

11. I find that as regards both the consideration of the relevant issues and the weight placed on the comments of the Parish Council the Council has not acted unreasonably. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated and an award of costs is not justified.

Clive Tokley

INSPECTOR