
Costs Decision

Site visit made on 2 May 2017

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 27 June 2017

Costs application in relation to Appeal Ref: APP/Y3805/W/16/3161475 27 New Road, Shoreham-by-Sea, West Sussex BN43 6RB

- 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 M Deller for a partial award of costs against Adur District Council.
 - The appeal was against the refusal of the Council to grant planning permission for a new 3/4 bedroom 2 storey dwelling.
-

Decision

1. The application for costs is refused.

Reasons

2. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary costs in the appeal process. Examples of the type of behaviour which may give rise to an award of costs against a local planning authority are set out in paragraphs 47 and 49 of the Guidance.
 3. Mr Deller applied for a partial award of costs. The Council's Decision Notice included a single reason for refusal, but this had two aspects. Firstly, the applicant at paragraph 7.2 of the grounds of appeal accepts that the Council has put forward an argument in respect of the impact of the proposal on the character or appearance of the Shoreham-by-Sea conservation area. As such the claim for costs does not relate to this matter.
 4. In relation to the second aspect, the applicant asserts that the Council has behaved unreasonably in referring to guidance he considers to be outdated and that it has not fully considered the proposal in relation to the government's Technical Housing Standards: Nationally Described Space Standard. Furthermore he contends that the Council incorrectly assumed the proposal is an 8 person dwelling because the floor plans indicate four double bedrooms, rather than a 5 person dwelling with 1 double bedroom and 3 single bedrooms.
 5. The Council's officer report included an assessment of the proposal against both the Council's own Guidance and the government's Technical Standards in assessing the proposal, and the floorspace of the proposed dwelling falls short against both of these standards, based on the drawings submitted with the application, which showed double beds in each of the four bedrooms. The Council was entitled to make an assessment based on the information
-

- submitted, and the Technical Housing Standards are clear at paragraph 6 that they do not imply actual occupancy.
6. From 1 October 2015 Councils who wish to require an internal space standard must do so only by reference to the nationally described space standard within their local plan. There is no evidence before me that the Council has such an adopted policy, and following the introduction of the national standards the Council's Good Practice Guide has very limited weight. Nonetheless, the Council's concerns, as set out in the officer report, related to both the size and layout of the dwelling, including its proximity to the adjacent supermarket, and did not focus solely on the mathematical calculation of floorspace. The decision was also made by reference to policy AH2 of the Adur District Local Plan (1996), which requires proposals to incorporate adequate standards of amenity of new dwellings. As such, I consider that the Council had a reasonable basis for its stance in relation to living conditions.
 7. Furthermore, in order for an award of costs to be made, the two parts of the test in the Guidance have to be met, as set out in paragraph 2 above. The applicant deals with the matter of living conditions in paragraphs 5.4 to 5.7 of his grounds of appeal, and includes as an appendix an extract from the Technical Housing Standards. Whilst applications for costs are not required to include details of actual expenditure, the arguments put forward at the appeal stage in relation to the application of the Council's Good Practice Guide and the Technical Standards are brief and therefore unlikely to have resulted in significant expense beyond the normal costs of undertaking an appeal. The applicant accepts the appeal would not have been avoided due to the first aspect relating to the effect of the proposal on the Shoreham-by-Sea conservation area.
 8. Taking all of the above into account, I conclude that unreasonable behaviour leading to unnecessary or wasted expense in the appeal process on the part of the Council has not been demonstrated. Accordingly, an award of costs is not justified in this instance.

Claire Victory

INSPECTOR