The Planning Inspectorate

Costs Decision

Site visit made on 7 November 2017

by Lesley Coffey BA Hons BTP MRTPI

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

Decision date: 14th December 2017

Costs application in relation to Appeal Ref: APP/M3645/W/17/3181846
Chartcroft Cottage, Patens Road, Oxted RH8 0RE

- 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 J Pannett for a full award of costs against Tandridge District Council.
- The appeal was against the refusal of the Council to grant subject to conditions planning permission for the demolition of the existing dwelling and garage and construction of a new dwelling and garage.

Decision

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

Reasons

2. 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 or wasted expense in the appeal process.

3. The appellants allege that the reason for refusal is unsubstantiated and does not stand up to scrutiny. As a consequence they have incurred unnecessary expense in seeking to pursue this appeal.

4. Planning Practice Guidance sets out examples of unreasonable behaviour that may lead to an award of costs against appeal parties. In the case of local planning authorities these include failing to have regard to government policy, or its own adopted policies and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

5. It is evident from the Officer's report that consideration was given to the size of the buildings and outbuildings at the appeal site, as well as the Castlenau judgement. It identified the volume of the proposed buildings and the total volume of the buildings to be removed. Consequently, the assertion by the appellants that the Council failed to take account of the difference in size between the existing buildings and that proposed is not supported by the evidence.

6. The appellant suggests that the proposal would come within the Council's 'rule of thumb' which accepts that a 30% increase in the size of dwellings would not be materially larger. The only evidence in relation to this 'rule of thumb' is the committee reports submitted by the appellants. These generally pre-date both the NPPF and the current development plan. Moreover, the comparison within

these reports is between the size of the original dwelling and the proposal. For the reasons given in the decision the appeal scheme would considerably exceed this figure. It is also evident that the Council took account of the mass and bulk of the proposal as well as the volumetric increase. Therefore the Council's approach to the increase in the size of the building was not unreasonable and there appears to be no inconsistency with other decisions.

7. Although the Council was of the opinion that the appellants' were unlikely to implement the fallback scheme, it gave this matter full consideration. Indeed it occupied one and a half pages of the officer's report. The report referred to a previous application for a certificate of lawful development and the inconsistency between the pre-application schemes submitted to the Council by the appellants and the permitted development scheme shown on the submitted plans. The Council provided cogent reasons as to why it considered that the appellant would be unlikely to implement the permitted development scheme. Notwithstanding this, it also considered the impact of these buildings and concluded that the harm arising from them would be less that from the appeal scheme. I therefore consider that the Council provided a comprehensive explanation as to why the appellants' fallback scheme did not justify the proposal.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Lesley Coffey

INSPECTOR