

Costs Decision

Site visit made on 20 August 2019

by Sandra Prail M.B.A., LL.B (Hons), Solicitor (non practising)

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

**Costs application in relation to Appeal Ref: APP/D3830/W/18/3210197
Land at Fir Tree Cottage, Warninglid Lane, Warninglid, Haywards Heath,
West Sussex, RH17 5TQ**

- 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 Mid Sussex District Council for a full award of costs against Mr & Mrs Els.
 - The appeal was against a refusal to remove condition 10 of planning permission 14/02766/FUL (the Permission) to retain the original dwellinghouse for use as a home office and ancillary accommodation to the main house.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that irrespective of the outcome of the appeal, costs may 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 Guidance provides that an Appellant is at risk of an award of costs if an appeal or ground of appeal has no reasonable prospect of succeeding. It states that this may occur when the development is clearly not in accordance with the development plan and no other material considerations such as national planning policy are advanced that indicate that the decision should have been made otherwise or where other material considerations are advanced there is inadequate supporting evidence.
4. The Council argues that the development the subject of the appeal is clearly not in accordance with the development plan and that this has been made clear to the Appellants at three key stages – namely, by the imposition of Condition 10 of the Permission, in pre-application advice and in refusing the application to remove condition 10.
5. In my substantive decision I do not support the Appellants' appeal but that does not make their behaviour in lodging an appeal unreasonable. I agree that the Council has taken a clear position throughout but the Appellants' argument concerning the application of relevant development plan policies was not unarguable and they provided a comprehensive analysis of their reasoning. The Appellants sought professional planning advice and it was not

unreasonable of them to challenge the Council's concerns and exercise their right of appeal in the circumstances of this case. The grounds of appeal were not so flawed as to have no reasonable prospect of success.

6. For the reasons given, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. I conclude that the award of costs sought by Mid Sussex District Council against Mr & Mrs Els is not justified. The application should be refused and there is no justification for a partial award.

S. Prail

INSPECTOR