



Costs Decision

Site visit made on 15 October 2019 by Emma Worby BSc (Hons)

Decision by Andrew Owen BA (Hons) MA MRTPI

appointed by the Secretary of State

Decision date: 15th November 2019

Costs application in relation to Appeal Ref: APP/C1435/W/19/3233813 Little Marshfoot, Mill Road, Hailsham, BN27 2SJ

- 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 Ms K Dewhurst for a full award of costs against Wealden District Council.
 - The appeal was against the refusal of planning permission for the removal of existing holiday accommodation/residential building and construction of two-storey dwellinghouse.
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Decision

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

Reasons for the Recommendation

2. The Planning Practice Guidance advises that 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 PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example by making vague, generalised or inaccurate assertions about a proposal's impact. They are also required to behave reasonably in relation to procedural matters, including site visits.
4. The appellant has stated that the Council acted unreasonably by taking into account an outline planning application to the rear of the site into account when a layout for this development has not been approved. Although the final layout for this residential development to the rear of the appeal site has not been approved, the Council are within their right to give weight to the future development on this land and ensure that its development is not compromised by the proposal, albeit I give it little weight in my consideration of the appeal. It is also noted that the principle for a residential dwelling in this position on the site has been established, however the proposal is far larger than the existing annexe building and therefore a fresh assessment should be undertaken.
5. The appellant has indicated that the Council did not undertake a site visit and so did not take into account the landscaping between the proposal and the existing dwelling on the site. However a photo provided by the Council, taken during the site visit, clearly shows the landscaping in question and therefore it can be assumed that this would have been sufficiently considered.

6. Furthermore, concerns have been raised regarding the lack of communication from the Council. Although it is noted that the proposal could possibly have been amended to overcome the reason for refusal, it does not appear that pre-application advice was sought prior to this planning application and it is not unreasonable for the Council to fail to offer comment during the life of the planning application, particularly in light of the communication already undertaken between the parties relating to the previous planning permission.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, an award for costs is not justified.

Conclusion and Recommendation

8. For the reasons given above and having had regard to all other matters raised, I recommend that an award of costs of refused.

Emma Worby

APPEALS PLANNING OFFICER

Inspector's Decision

9. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis an award of costs is refused.

Andrew Owen

INSPECTOR