
Costs Decisions

Site visits made on 21 February 2022 and 29 March 2022

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 APRIL 2022

Costs application in relation to Appeal A Ref: APP/P1425/D/21/3284565 3 Homefield Road, Seaford BN25 3DG

- 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 Joseph Palmer for a full award of costs against Lewes District Council.
 - The appeal was against the refusal of planning permission for lower ground floor, ground floor and first floor extension and demolition of existing garage and boundary wall and construction of new garage and boundary wall.
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Costs application in relation to Appeal B Ref: APP/P1425/D/22/3290793 3 Homefield Road, Seaford BN25 3DG

- 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 J Palmer for a full award of costs against Lewes District Council.
 - The appeal was against the refusal of planning permission for lower ground floor, ground floor and first floor extension including internal first floor alterations.
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Decisions

1. The application for an award of costs for **Appeal A** is allowed in the terms set out below. The application for an award of costs for **Appeal B** is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The application for costs in relation to **Appeal A** is predicated on the claim that the Council's decision was based on an incorrect assessment of the proposal and its surroundings. There can be no doubt that the Design and Conservation Officer's advice was misleading – the consultation response stated that the infill part of the proposed wall would reach halfway up the gable to the garage to The Star House. This is inaccurate, as illustrated by the computer generated images submitted as part of the appellant's evidence. I have no means of knowing whether the wall would have been deemed acceptable by the Council had the consultee not misrepresented its height. Nevertheless, the appellant has been put to the unnecessary expense of preparing evidence to rebut an error which should have been picked up by the case officer at their site visit.

4. Of course, the Council's concerns went beyond the proposed wall. The appellant contends that the local planning authority should have granted permission for the proposed extension on the grounds that the plot for Easemore House is one of the largest in the locality, meaning that it can accept further development without harming the appearance of the existing building or the character of the area. This is a subjective statement. The decision on whether or not to grant permission for the extension required the exercise of planning judgement. That the Council has subsequently granted permission for an extension under reference LW/21/0705 does not make the appeal scheme acceptable, as the proposals are materially different in terms of their scale and design. The Council was entitled to deal with the applications on their merits.
5. I have concluded that **Appeal A** should be dismissed. It follows that a full award of costs is not warranted. However, I consider that the shortcomings in relation to the Council's assessment of the proposed wall justify a partial award of costs in the appellant's favour.
6. **Appeal B** related to a proposed extension with turret features. It is contended that the Council has prevented development which should have been permitted having regard to its accordance with the development plan, national policy and other considerations. However, much like Appeal A, the decision on whether to approve the extension involved matters of judgement concerning the character and appearance of the local area. Whether turrets are in keeping with an Edwardian property was not the only matter for consideration. The appellant was entitled to their opinion regarding the architectural merits of the scheme, but it was also legitimate for the Council to advance an opposing argument relating to visual impact. This argument was clearly expressed and supported by relevant planning policy. It was not unreasonable for the case officer to give weight to the views of the Design and Conservation Officer and interested parties.
7. Ultimately, my planning decision finds in favour of the Council and consequently the authority's decision was not unreasonable. An award of costs in relation to **Appeal B** is not warranted.

Costs Order

8. In the exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Lewes District Council shall pay to Mr Joseph Palmer, the costs of appeal proceedings described in the heading of this decision, limited to those costs incurred in preparing evidence to rebut the Design and Conservation Officer's assertions in relation to the height of the proposed boundary wall in **Appeal A**. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Lewes District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Robert Parker

INSPECTOR