

Costs Decision

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2022

Costs application in relation to Appeal Ref: APP/C1435/W/21/3287546 Clareholme, Ditton's Road, Polegate, BN26 6HT

- 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 Mrs J Stanbridge for an award of costs against the decision of Wealden District Council.
 - The appeal was made against the refusal of an application, Ref WD/2020/1765/F, which sought planning permission for 3 no. four-bedroom houses, removal of side extensions to existing house, widened crossover.
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Decision

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

Reasons

2. Planning Practice Guidance (guidance) advises that, 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 Appellant argues that there has indeed been unreasonable behaviour by the Council. The Appellant notes that although recommended for approval by officers, the Planning Committee set forth on unsubstantiated and unsupported claims of over-development, impact on the character of the area, privacy loss and relationships relating to neighbours and all in the context of inconsistency compared to other decisions. Committee Members strayed into non planning matters, at times used regrettable turns of phrase, and paid little regard to the technical, environmental and policy advice of Officers. No firm evidence was put forward to support Members' concerns and the Council's decision represents unreasonable behaviour and demonstrates an inability to point to specific planning harm. The Appellant applies on the grounds that the Council's decision making was flawed and unreasonable, both on substance and in terms of the way in which Members conducted themselves during the debate at Committee.
 4. The Council suggests there is clear reasoning backed up by reference to current planning policies to support the refusal reasons. The issues are matters of judgement and planning balance and the Council responded in a timely and complete manner at each stage of the appeal process. In particular the Council feels that the matters of character and residential amenity are subjective judgements to be made in relation to the development plan and NPPF. It is stated that the Council sets out in detail the substantive case for each element of the refusal and matters are not vague, generalised or based on inaccurate
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assertions. The Council argues that the refusal reason was clear and precise in relation to the impacts arising from the amount of development sought and the juxtaposition with the existing dwellings. The decision to refuse the scheme was reached after a lengthy committee debate and the Committee are not bound to accept the recommendations of their officers and it is put that reasonable grounds for taking a contrary decision are evidenced. The Council feels that backland development is very site specific such that drawing on decisions for other sites is not evidence of inconsistency.

5. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a full or, indeed, a partial, award of costs.
6. I recognise that an appeal process can be time and fee consuming and that professional assistance comes at a cost. However, I would say that the Council has given reasons for the subjective judgement it reached. I surmise that the Members dealt with the plans before them, and all other material considerations including any representations, and reached a not wholly unsurprising or illogical decision on the scheme. This scheme was judged on its own merits; I am not persuaded that there was inconsistency in approach. Obviously, the Members did not follow the advice of the Officers. Nevertheless, to my mind the refusal reason is clear and sets out unequivocally the concerns of the Council and cross-refers to applicable policies.
7. As it happens, I agree with the conclusion reached by the Council on the scheme. However, even if I had not, I would nevertheless defend its wording and assertions in the round as not being unsubstantiated and its actions throughout the process as not being irrational.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

D Cramond

INSPECTOR