

Costs Decision

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2023

**Costs application in relation to Appeal Ref: APP/D3830/D/22/3312022
Tyler House, Cross Colwood Lane, Bolney, Haywards Heath, RH17 5RX**

- 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 Duke Harvey for an award of costs against the decision of Mid Sussex District Council.
 - The appeal was made against the refusal of an application, Ref DM/22/2643, which sought planning permission for a 3 bay garage and store with home office above.
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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 same amount of development was previously approved under the same policies less than three years ago and then, as now, the Parish Council did not object. The site does not fall within a Conservation Area, the Green Belt, AONB or other such designation. The Appellant makes the case that as the proposal accords with relevant development plan policy its determination should follow the presumption in favour of development under the NPPF. There was a failure to have regard to material considerations including those under the Framework and previous decisions. Furthermore, any regard for a fall-back position was cursory rather than genuine. The consequence is the Appellant feels time and financial costs associated with an appeal have arisen unnecessarily.
 4. The Council sets out that the Officer's report includes full assessment of this planning application. The site is described along with what has been previously approved and how these developments vary from the scheme under consideration. Reference is made to differing siting, footprint and levels in respect of past permissions and why they were acceptable. The Council underlines that the proposal being located between the holiday lets and the main dwelling house made a difference in that whilst the level of development remained the same, consideration needed to be given to the impact of the garage as a separate building, in a revised location that is closer to the host dwelling. This assessment is reasonably made in the Officer's report according to the Council. The Officer's report also sets out the designations that are
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relevant to this application as well as the policies. Planning legislation was followed in the Council's eyes with countryside policies drawn upon from the Local and Neighbourhood Plans and it was concluded that the proposal would fail to comply with the relevant policies.

5. Finally, the Council states that reference was made possible permitted development (pd) and it is acknowledged that a range of outbuildings could be constructed. However, the building under consideration could not be built under as pd as it does not allow for two storey buildings. It was therefore concluded that a comparable building could not be constructed as fall-back and so the Council re-iterates that little weight was attached to this argument.
6. 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.
7. 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 Council dealt with the plans before them, and all other material considerations, and reached a not wholly unsurprising or illogical decision on the scheme. The matters of fall-back and other consents not directly on the site of the proposed garage were addressed and a justifiable selection of planning policies were cited. No claims were made that this countryside had any over-arching additional protective designations and it is clear in the report that the Parish Council did not object. This scheme was judged on its own merits; I am not persuaded that there was omission or inconsistency in approach. The refusal reason is clear and sets out unequivocally the concerns of the Council and cross-refers to applicable policies.
8. As it happens, I do not agree with the conclusion reached by the Council on the scheme. However, 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.
9. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

D Cramond

INSPECTOR