



Costs Decision

Hearing held on 23 July 2024

Site visit made on 23 July 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2024

Costs application in relation to Appeal Ref: APP/C1435/W/24/3343246 Chelwood Pound Lane, Laughton, LEWES, BN8 6BE

- 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 Wealden District Council for a partial award of costs against Mr Andrew Moxon of Helix Homes Limited.
 - The appeal was against the refusal of planning permission for the erection of two dwellings, access, landscaping and associated infrastructure.
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Decision

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

The submissions for Wealden District Council

2. The costs application was submitted in writing and supplemented by oral submissions during the course of the event. I will not reproduce the applicant's detailed submissions here, instead they are summarised below.
3. The appellant acted unreasonably in procedural terms, by delaying information and failing to adhere to deadlines through the provision of new and substantive evidence, at a late stage, in the form of the updated Internal and Garden Daylight Assessment¹. The late evidence was submitted at short notice prior to the hearing leading to further work and expense for the Council. In light of this unreasonable behaviour the Council has incurred unnecessary costs in defending its case, through the need for specialist officer input.

The response by Mr Mark Pender on behalf of Helix Homes Limited

4. The response was made orally at the hearing. In terms of the alleged substantive unreasonable behaviour, the respondent stated that the updated information was in response to the Planning Inspectorates pre-hearing note section on late evidence. The respondent further indicated that the Council had had 2 weeks to review the information and that any further specialist advice had not been seen within the evidence.

Reasons

5. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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.

¹ Prepared by Impact Sustainability (Ref: 2336/IDA/02 Rev 02) dated 09/07/2024

6. The PPG gives several examples where procedural behaviour of an appellant may give rise to an award of costs. These examples include delay in providing information or other failure to adhere to deadlines and only supplying relevant information at appeal when requested, but not at application stage.
7. Although the updated Internal and Garden Daylight Assessment was submitted at a late stage, there is no clear evidence that abortive work was undertaken in the meantime. The Council had an opportunity to consider the matters addressed in the report and were able to provide a rebuttal to these issues, neither of which reduced the discussion of these matters at the hearing. Therefore, even if the assessment had been finalised and submitted earlier, a similar level of preparation would have been required.
8. The updated assessment related to a specific point (amounts of daylight received in external amenity areas) which the Council had already raised as part of its reasons for refusal, and this is clearly of relevance to the appeal. Given it formed part of the Council's refusal, these matters should reasonably have been considered to form part of this case. Therefore, the amount of time needed for specialist officer input required for the Council to respond to these matters, would have been much the same if the document had been available earlier in the procedure. Consequently, there is little evidence that abortive costs were incurred.
9. As parties in planning appeals and other planning proceedings normally meet their own expenses, I therefore find that unreasonable behaviour by the appellant, resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated and that no award of costs is justified.

Robert Naylor

INSPECTOR