
Costs Decision

Site visit made on 2 August 2024

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2024

Costs application in relation to Appeal Ref: APP/Y9507/W/24/3345575 Madhuban Tandoori Restaurant, 94 Station Road, Liss GU33 7AQ

- 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 Bedar Miah for a partial award of costs against South Downs National Park Authority.
 - The appeal was against the refusal of planning permission for a two storey extension to the Madhuban Restaurant.
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Decision

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

Reasons

2. Planning Practice 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. In this case the appellant argues that the Authority behaved unreasonably in adding a fifth reason for refusal in their appeal statement when the decision notice issued only included four reasons for refusal. Adding a fifth reason at such a late stage was unreasonable and caused the appellant unnecessary expense in having to deal with the additional matter. The fifth reason related to refuse and recycling storage facilities.
4. The position is confusing as the delegated decision sign-off sheet, authorising the refusal of permission, does include five reasons for refusal, the last one of which was omitted from the decision notice. Perhaps significantly, there are other changes to the wording of the reasons for refusal in the decision notice compared to the sign-off sheet. The Authority do not explain the discrepancies in their response to the costs claim, nor their view as to which wording is definitive. This is deeply unsatisfactory and the Authority should explain or amend their approach in future.
5. In any event, in the current case the appellant was aware of the putative fifth reason as the grounds of appeal refer to the case officers report¹. The report clearly raises concerns about the proposed refuse storage arrangements in the section about access, parking and servicing with which it is closely related². The appellant's initial response to those issues did not mention waste storage,

¹ Paragraph 6.12

² The proposed refuse arrangement is not considered acceptable...

but once the subject was drawn to the appellant's attention a brief email reply, that the concern could be dealt with by condition, was received.

6. In the circumstances, whether or not a fifth reason for refusal could be said to have been added or was simply omitted from the decision notice in error, the appellant was aware of the matter when drawing up their case and did not incur unnecessary or wasted expense in the appeal process.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

David Reed

INSPECTOR