



Costs Decision

Site visit made on 23 July 2018

by **Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 August 2018

Costs application in relation to Appeal Ref: APP/Y9507/D/18/3201537 Pippins, The Street, Offham, Lewes, East Sussex BN7 3QE

- 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 & Mrs Eric Styles for a full award of costs against the South Downs National Park Authority ('the NPA').
 - The appeal was against the refusal of planning permission for a front extension.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Preliminary Matter

2. The NPA was invited by PINS to state its case for a rebuttal of the application for costs but failed to do so.

Reasons

3. The Government's Planning Practice Guidance 2014 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.
4. The application for costs cites two of the examples of unreasonable behaviour by a Local Planning Authority in the Planning Practice Guidance. These are (i) preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, and (ii) vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. The grounds of appeal allege a number of inaccuracies in the NPA's Delegated Report. With the limited evidence before me, including the absence of a costs rebuttal, I am unable to ascertain whether this allegation is entirely true. Be that as it may, there are several alleged errors that are particularly significant and from my visit to the site and appraisal of the application I am satisfied that the appellants' assertions are correct.
6. Section 1 of the Report: 'Site Description' says that '*The back garden rises steeply behind the bungalow*'. Section 8: 'Planning Assessment' adds '*The site has a hard stony surface in front and the bungalow is set back within the plot, the only useable outdoor amenity space is in front. This is because the rear garden predominantly comprises a steep and narrow bank. There is a risk that further enlargement of the existing building will contribute further to the dwelling having a cramped appearance within this plot*'.

7. Section 8 goes on to include the assessment that *'..... the proposed extension will copy the form and external finishes of the main bungalow and will be subservient in scale. The main issues are the scale of the resulting building in relation to the size of the plot and also to the positive spatial characteristics and rural setting of the locality'*.
8. The description of the rear garden is patently inaccurate and even if the fact that the planning officer failed to see the back garden on his visit could be accepted as a one-off mistake, it is clear that he also failed to note the site boundary edged red on the Location Plan (710/3) and on the Site and Block Plan. The thrust of the application's assessment in the Delegated Report and the basis of the reason for refusal is that the extension would result in a cramped development out of keeping with its surroundings. However, there is the additional observation that the only useable outdoor amenity space is in front (of the bungalow).
9. With both of these assertions being wrong, it is clear that the appraisal of the application and its subsequent refusal were materially predicated on inaccurate observations at the site visit and in my opinion, much more culpably, a failure to appraise the application plans with a reasonable degree of care and accuracy. Furthermore, the agent for the appellants notified the NPA of the significant errors in the Delegated Report, and even though the case officer was on holiday there was a failure of management to delay the issue of the Decision Notice to clarify and if necessary correct any mistakes made.
10. There are a number of other deficiencies in the appraisal of the application, including the vague and generalised assertion of a loss of amenity for the occupiers of Woodcock Cottage that in the event was not included in the Notice of Refusal. However, it is in respect of errors in the processing of the application, combined with the failure to take the opportunity to do something about them, that I consider the NPA has behaved unreasonably. This has necessitated an appeal and the development being delayed when clearly it should have been permitted.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

12. In 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 the South Downs National Park Authority shall pay to Mr & Mrs Eric Styles the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicants are now invited to submit to the South Downs National Park Authority to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Martin Andrews

INSPECTOR