The Planning Inspectorate

Costs Decision

Site visit made on 9 June 2021

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 29 JUNE 2021

Costs application in relation to Appeal Ref: APP/Y3805/W/21/3270585
66 Old Fort Road, Shoreham-by-Sea BN43 5HA

- 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 Andrew Pollard for a full award of costs against Adur District Council.
- The appeal was against the refusal of planning permission for demolition of a two-storey house and replacement with a part three storey detached house.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. Unreasonable behaviour may be procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.

3. The PPG is clear that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, in not determining similar cases in a consistent manner. This is basis of the case for the appellant. I have been provided with evidence of a number of larger three storey dwellings in the vicinity of the appeal site that have been permitted, the appellant asserts that the Council has failed to determine similar cases in a consistent manner.

4. It is clear from my decision on the appeal that upon considering the evidence and conducting a site visit I found the area to be an eclectic mix of properties, demonstrating a variety of architectural styles in both form and scale. This variation can be accommodated due to the vast openness of the area, which allows for larger properties to sit alongside more modest ones, all benefitting from generous sized plots.

5. Having regard to some of the comparative buildings that have been permitted, there is a lack of reasoning in the council's case in respect of the harm that they assert would be caused by this dwelling. Each proposal must be considered on its own merits. However, in this particular area there is a clear evolution in building design that has been permitted over a period of time by the Council. These larger dwellings are spread out such to avoid clusters of

dominant forms, and the proposed dwelling subject to this appeal would not be in a cluster. When assessed on its own merits, whilst having regard to the surrounding development, the proposal would comply with the development plan.

6. It is apparent that in refusing this proposal the council has not been consistent in its approach to development within this area and as a consequence the appellant has felt it necessary to pursue the appeal. In submitting evidence, the Council has been somewhat vague in substantiating its reason for refusal having regard to the examples clearly found within the area for which it has given permission.

7. I therefore find that unreasonable behaviour by Highways England, resulting in the appellant incurring unnecessary and wasted expense, as described in the PPG, has been demonstrated and a full award of costs is justified.

Conclusion

8. 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 Adur District Council shall pay to Mr Andrew Pollard, 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.

9. The applicant is now invited to submit to Highways England to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J Ayres

INSPECTOR