Planning Inspectorate

Costs Decision

Site visit made on 30 April 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2025

Costs application in relation to Appeal Ref: APP/Y3805/W/25/3359461
51 Old Fort Road, Shoreham by Sea, West Sussex, BN43 5RL

- 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 and Mrs David and Brenda Collins for a full award of costs against Adur District Council.
- The appeal was against the refusal to grant planning permission without complying with conditions subject to which a previous planning permission was granted.

Decision

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

Reasons

2. 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. Therefore, both unreasonable behaviour and unnecessary/wasted expense need to occur for a claim to be successful.

3. The PPG provides examples of unreasonable behaviour by local planning authorities including a failure to substantiate its reasons on appeal or delaying development which should clearly be permitted. The PPG advises that cost awards may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits) of the appeal. A full or partial award can be claimed.

4. The applicants do not specify whether this is a procedural or substantive claim, nor if they are seeking a full or partial award. Given the contents of the submissions, I have interpreted it as including both procedural and substantive elements and that it is a full claim for costs.

5. It is evident from the appeal decision that this is not a development which should clearly have been permitted. Overall, the Council's submissions set out its concerns and those of the technical consultees. It adequately explained why the proposal was not considered to be acceptable.

6. Any appeal is based on a difference of opinion and the position taken by the Council on appeal has been made out with sufficient detail and analysis. Accordingly, the decision was not an unreasonable one to make and so the substantive element of the claim fails.

7. A claim for costs must be in relation to the expenses of the appeal itself. Thus, some of the more wide-ranging expenses identified by the applicants are not ones which can be taken into account. For example, there is reference to the time taken by the Council to determine the initial application and the lack of consultation around the imposition of the original condition. However, these do not relate to the current appeal. As such, these are not procedural matters that fall directly within the remit of this decision.

8. Furthermore, even if the original condition was an unreasonable one, it has been amended to allow habitable accommodation and the floor levels as built. The current appeal was not in relation to either of those matters. I have concluded that the restriction on the accommodation being used for sleeping is not an unreasonable one to make in the circumstances of the case and so none of this provides the basis for a successful claim.

9. In respect of the procedures around the current proposal I did note that, for reasons which were not entirely clear, the Officer Report indicated that the application was amended to omit the request for the lower ground floors to be used for sleeping accommodation. Other than a suggestion that the applicants' agent agreed to the wording of the amended condition, no evidence has been presented to me to substantiate this position. A consequence of all this was that the matter of the lower ground floors being used for sleeping accommodation was not directly discussed in the Officer Report.

10. However, in the subsequent appeal the Council has not mentioned the change in description but instead has vigorously sought to resist the restriction on sleeping accommodation from being lifted. I have no doubt that had this matter been considered within the Officer Report, the Council would similarly have resisted this aspect of the scheme, and an appeal would have been the likely outcome.

11. Consequently, even if the Council's actions in this regard were considered to have been procedurally unreasonable, they did not result in an appeal which would otherwise not have occurred. Therefore, unnecessary or wasted expense has not been incurred.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for costs is refused.

Stewart Glassar

INSPECTOR