
Costs Decisions

Site visit made on 8 November 2016

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02 December 2016

Costs application in relation to Appeal Ref: APP/G2245/W/16/3154060 'The Rock' Public House, Hoath Corner, Chiddingstone Hoath, Edenbridge, Kent TN8 7BS

- 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 John Coldman for a full award of costs against Sevenoaks District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for demolition of outbuildings and construction of new part two storey extension to north/east of the original Grade II listed public house to provide fully accessible bar, kitchen, dining and toilet space and improved manager's residential accommodation at first floor level.
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Costs application in relation to Appeal Ref: APP/G2245/Y/16/3154062 'The Rock' Public House, Hoath Corner, Chiddingstone Hoath, Edenbridge, Kent TN8 7BS

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr John Coldman for a full award of costs against Sevenoaks District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for listed building consent for demolition of outbuildings and construction of new part two storey extension to north/east of the original Grade II listed public house to provide fully accessible bar, kitchen, dining and toilet space and improved manager's residential accommodation at first floor level.
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Decisions

1. I refuse the applications for awards of costs.

Reasons

2. The Planning Practice Guidance 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.
 3. Looking first at the planning appeal, the Officers were proposing refusal within the statutory period, but the intervention of the Ward Member prevented delegated authority and brought about the need for an elected member's decision. Further information was made available by the appellant and the time for the Decision passed. The appellant decided to make the appeal against non-determination on a form dated 8 July, and from the acceptance of
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- that appeal, the jurisdiction passed solely to the Secretary of State to consider the application as if made to them in the first instance.
4. It is the case that the Committee resolved not to defend the planning appeal and resolved that had that jurisdiction remained with them, planning permission would have been granted. The precise balance between harm and benefits amounting to very special circumstances is not clear from the minutes, but Members did appear to consider the information available about tenancies and the need for extra covers; *'Members discussed the extent to which very special circumstances had been made out for the extension and considered the comments from the speaker in favour of the application that there had been 5 failed tenancies in the property since 1999 and that expansion was a condition of a particular potential tenant taking occupation. The Committee discussed whether the extension was subservient to the original building'*.
 5. That meeting took place on 8 September 2016 and the letter from the prospective landlord setting out the benefits of the extra covers and her track record was dated 6 September 2016, although the appellant had consistently argued the need for additional covers to bring the public house back into viable operation. It is clear therefore that the Committee meeting that decided at a late stage that permission would have been granted was in possession of additional information given either orally at the meeting, or immediately prior to it, in the letter from Emma Welch.
 6. On that basis it is not possible to conclude safely what the Committee's view would have been on that necessary balance had they met prior to the expiry of the statutory period, or prior to the appeal taking away the jurisdiction. The Officers had been consistent over a lengthy period as to the unacceptable nature of the proposal in Green Belt terms, notwithstanding the appellant's view of previous more positive indications. The Committee meeting of 8 September was recommended to resolve that planning permission would have been refused, and it is within the Committee's powers to resolve contrary to that, but in this case, that resolution could have had no effect in granting permission, although it is a material consideration in the appeal.
 7. Turning to the listed building consent appeal, the considerations on which the officers based their objection were reasonable and the accompanying Appeal Decision has been taken with the same statutory requirements, Government guidance and the Development Plan in mind. It is the fact that the balance arrived at in the accompanying Appeal Decision differs from that of the Officers and the Committee, but that does not mean that their considerations and conclusions were unreasonable.
 8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated

S J Papworth

INSPECTOR

