
Costs Decision

Site visit made on 6 December 2016

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 22 December 2016

**Costs application in relation to Appeal Ref: APP/J1915/W/16/3158671
Gregorys Farm, Dane End, Hertfordshire SG12 0PH**

- 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 Michael Smyth for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for conversion of buildings from ancillary to Work/Live Units.
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Decision

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

Reasons

2. The national Planning Practice Guidance (PPG) advises in paragraphs 29 and 30 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. The applicant submits that the Council has acted unreasonably with regards to paragraph 49 of the PPG and the failure to give appropriate weight to the material differences between the scheme that was refused and dismissed at a previous appeal¹ and the current appeal scheme. The applicant contends that the Council treated the current appeal scheme as if it were solely for a Class C3 dwelling, did not apply policies from the East Herts Local Plan Second Review April 2007 ('the Local Plan') correctly and over-relied on paragraph 55 of the National Planning Policy Framework (NPPF).
4. I consider that the Council were not obliged to submit an appeal statement to defend their reason for refusal, and their reliance on the original officer's report does not automatically diminish their case on the merits of the scheme or strengthen the applicant's grounds for costs. Furthermore, the lack of an appeal statement from an interested party has no relevance to a costs application against the Council.
5. In the officer's report, it is clear to me that the Council considered the implications of the previous appeal decision and the differences a live/work unit would have compared to a sole Class C3 dwelling. Their conclusion that the residential elements of the current appeal scheme still carried decisive weight

¹ APP/J1915/W/16/3142833

was a coherent one. Therefore, I do not find that the Council acted unreasonably in how they treated the current appeal scheme.

6. It is also clear that the report addressed policies from the Local Plan, acknowledging compliance and conflicts and the reduced weight afforded to Policy GBC9 as a result of the previous appeal decision. The lack of reference to any development plan policy in the decision notice was not ideal, but it was evident that the Council considered the conflict with paragraph 55 of the NPPF to be decisive. It was also evident that the Council considered other paragraphs of the NPPF in their report, including paragraphs 7 to 9 regarding the economic, social and environmental components of sustainable development.
7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is an important material consideration. Therefore, I do not find that the Council acted unreasonably in terms of how they applied local policies or relied on paragraph 55 as a material consideration to determine the planning application.
8. For the reasons set out above, I cannot agree that the Council has acted unreasonably in this case. As such, the applicant has not incurred unnecessary costs or wasted expense in the appeal process.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Tom Gilbert-Wooldridge

INSPECTOR