
Costs Decision

Site visit made on 28 December 2016

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

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

Decision date: 6 February 2017

Costs application in relation to Appeal Ref: APP/C3620/D/16/3161092 Land at Woodyers, Broomehall Road, Coldharbour, Dorking RH5 6HP

- 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 Nigel Perryer for a full award of costs against Mole Valley District Council.
 - The appeal was against the refusal of planning permission for the erection of a replacement barn to provide ancillary accommodation in the alternative to and to the same siting and dimensions as permission granted under MO/2015/2003 for conversion of barn to ancillary accommodation.
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Decision

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

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. I have concluded in my Decision that the application for a new building is in conflict with both the Council's Development Plan and the National Planning Policy Framework 2012 ('the Framework') in that it would comprise 'inappropriate development' within the Green Belt, which paragraph 87 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It is material to my overall view of the application for costs that the Council correctly applied local and national planning policy in its appraisal of the appeal application. Furthermore, the existence of very special circumstances in any particular case is a matter of planning judgement and a difference of opinion in this regard does not in itself predicate a costs award.
4. The nub of the matter in this case is firstly whether the extant permission for the conversion of the building is a legitimate fall back position and secondly, if so, whether it should be afforded the weight needed to comprise very special circumstances. From the officer's report it appears that the appeal application failed the first hurdle given the comment that *'From previous discussion with the applicant, it became apparent that the barn conversion was not possible to implement without demolishing the barn and re-building it'*.

5. In paragraph 14 of my Decision I explain the difficulty of ascertaining the facts as to whether or not this comment is accurate and this difficulty is compounded by (i) the applicant having had correspondence and discussions with the officers separately from his agent, and (ii) the fact that the procedure in this appeal (a written representation and householder case) does not enable me to request the full transcript of all emails that were exchanged, or indeed directly ask questions of the parties in an attempt to resolve the clear conflict of evidence in this case (as would be the case at a Hearing). The choice of procedure is not within the appellant's control, but nevertheless it does preclude the submission of satisfactory evidence on this costs application.
6. The Council had previously concluded in the conversion application granted permission that the barn was in fact capable of conversion, and common sense suggests that there must have been at least some reason for the about turn to the opposite view. An absence of clarity on this point makes it impossible to arbitrate fairly between the parties, whilst the letter from Hurst Kemp produced in the Grounds of Appeal is also of little help to the claim for costs because it was written 17 days after the application was refused.
7. On balance, I find that because I have insufficient information and evidence to resolve a direct conflict of evidence on essential matters of fact, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Martin Andrews

INSPECTOR