

Costs Decision

Site visit made on 11 April 2017

by Philip Willmer BSc Dip Arch RIBA

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

Decision date: 05 May 2017

**Costs application in relation to Appeal Ref: APP/X1925/D/17/3169195
Bee Farm, Raymouts Lane, Nuthampstead, Hertfordshire, SG8 8NB.APP/
Land at**

- 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 Grisbrooke for a full award of costs against North Hertfordshire District Council.
 - The appeal was made against the refusal of planning permission for the remodelling of bungalow into part two-storey house with new first floor.
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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. The appellant asserts that the Council acted unreasonably during the consideration of the original planning application, the subject of the subsequent appeal, by failing to reply to voicemail messages requesting a call back to provide an update on the progress of the application. In turn this lack of communication led to the appellant foregoing the right to withdraw the application in the knowledge that it was to be refused. Furthermore, this led directly to the appellant incurring the cost and expense of preparing and submitting an appeal.
 4. I entirely accept and fully appreciate the frustrations the appellant would have felt as a result of the lack of communication during the application process. I have concluded differently to the Council. Nevertheless, given the Council's reasons for refusal, I am not persuaded that in this case a more helpful approach would have resulted the scheme being approved through negotiation or more particularly in the appeal having been avoided, or the issues to be considered being narrowed.
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5. If the application had been withdrawn the appellant would have had the opportunity, once he became aware of the Council's concerns, to submit a revised proposal for consideration but would have not been in a position to appeal the decision. However, once it had been refused, the applicant still had the same right to submit a new application to address the Council's issues, without the need to appeal. Although, in this case, he also had the right to appeal the original decision as well if he wished.
6. I cannot condone the Council's apparent failure to work proactively through positive engagement with the applicant as required by paragraphs 186 and 187 of the National Planning Policy Framework. Nevertheless I find, on the balance of probability, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Philip Willmer

INSPECTOR