
Costs Decision

Site visit made on 2 October 2017

by S Jones MA DipLP

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

Decision date: 9th November 2017

Costs application in relation to Appeal Ref: APP/A2470/W/17/3180418 Garden House, The Avenue, Exton, Rutland LE15 8AH

- 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 Peter McNally for a full award of costs against Rutland Council.
 - The appeal was against the refusal of planning permission for first floor roof extension.
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Decision

1. The application for an award of costs is allowed in part as set out below.

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 applicant states that an award of costs would be justified because the amended plans submitted which addressed the Council's comments were not properly taken into account, the Council did not handle the matter appropriately, and the building was referred to as locally listed when it was not.
4. With regard to the amended plans, it is clear the Council did consider the amended plans but had unresolved concerns which justified their refusal in respect of character and appearance and the development plan, and that these concerns underlay the reasons for refusal given by the Council, who dealt properly with the lack of objections not being a reason in favour of a development in planning terms. This does not indicate that the Council acted unreasonably concerning their consideration of the amended plans and their effect on the character and appearance of the barn complex, because this is a subjective judgment. The Council processing the case as a delegated decision was an internal matter outside my scope with regard to the appeal generally or the application for costs, but I consider it was a reasonable action considering that not all matters necessarily go to committee depending on the Council's internal procedures. I am satisfied that no unreasonable behaviour arises in respect of these matters.
5. The buildings are not locally listed in terms of a formal list of local non designated heritage assets being produced by the Council as referred to in the National Planning Policy Framework (the Framework). Furthermore, the Officer Report contains no full assessment of the significance of the barn complex in

terms of it being considered by them to be a heritage asset. In addition, paragraph 134 of the Framework referred to in the Council's reasons for refusal applies only to designated heritage assets and the barn complex does not fulfil the definition of a designated heritage asset as set out in the glossary to the Framework. The appellant had to address the unjustified assertion that the building was locally listed. Although the barn complex could have a heritage value in terms of the Framework to be taken into account in the assessment of the planning merits of the case, this was inaccurately referred to, with the possibility that incorrect criteria were applied.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in addressing the implications of the Council's references to heritage value in the Council's reasons for refusal, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Rutland Council shall pay to Mr Peter McNally the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the Council's reasons for refusal about the barn complex specifically as a heritage asset; such costs to be assessed in the Senior Courts Costs Office if not agreed.
1. The applicant is now invited to submit to Rutland Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

S Jones

INSPECTOR