
Costs Decision

Site visit made on 30 October 2017

by Graham Wyatt BA (Hons) MRTPI

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

Decision date: 10th January 2018

Costs application in relation to Appeal Ref: APP/F2605/W/17/3179670 Agricultural Building, Doe Lane, Old Buckenham, Norfolk NR17 1PP

- 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 Ben Devlin for a full award of costs against Breckland District Council.
 - The appeal was against the refusal of the Council to grant planning permission for the change of use of an agricultural building to a dwelling (C3).
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) is clear that costs may only be awarded against a party who has acted unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG further sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. Additionally, the PPG is clear that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The appellant's claim is that the Council acted unreasonably during the determination of the planning application by introducing new points which resulted in the application taking 145 days to determine. Moreover, the Council contradicted expert opinion regarding the structural state of the building and that they presented unreasonable reasons for refusal which had adequately been dealt with during the application process.
4. The Council requested several extensions to consider the proposal which resulted in a lengthier time to determine the application. The Council have provided a detailed chronology of their requests to which the appellant agreed. I do not find this to be unreasonable behaviour from the Council.
5. While, I accept that expert opinion was presented in support of the application, it does not follow that this should not be scrutinised or questioned. Notwithstanding the qualifications of the Council's building control officers, they raised a legitimate concern regarding the fibre cement boards covering the building, which would have to be replaced should they contain asbestos. In addition, the Council requested clarification over the newly installed concrete floor within the building and whether it constituted a structural element. In that regard the Council did not contradict the expert advice, they questioned elements of the proposed development. On this particular matter, I do not find the Council have acted unreasonably.

6. With regard to presenting unreasonable reasons for refusal, the Council provided a decision notice and delegated report which clearly set out their position, which the appellant sought to appeal against. I am satisfied that the Council gave sufficient consideration to the application and that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is not justified.

Graham Wyatt

INSPECTOR