
Costs Decision

Site visit made on 30 October 2018

by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 23 November 2018

Costs application in relation to Appeal Ref: APP/J1860/X/18/3203066 Sabrina, Astley Burf, Stourport-on-Severn, DY13 0RY

- The application is made under Sections 195, 322 and Schedule 6 of the Town and Country Planning Act 1990 and Section 250(5) of the Local Government Act 1972.
 - The application is made by Paul Edwards for a full award of costs against Malvern Hills District Council ("the Council").
 - The appeal was against the refusal of a Certificate of Lawful Use or Development for the continued use of Sabrina as a dwelling-house (C3: use as a sole or main residence).
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Decision

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

Procedural Matters

2. The related Appeal Decision dated 5 November 2018 dismissed the appeal.

Reasons

3. The Planning Practice Guidance ("the PPG") 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.
4. I have noted the various criticisms made against the Council including:
 - a) Their alleged inconsistent approach in dealing with this application compared with nearby unauthorised development.
 - b) The Council's reference to the application being for a change of use of Sabrina.
 - c) The Council dealing with the application as if it were an application on its planning merits.
 - d) The length of time it took the Council to determine the application.
5. It is clear from the Refusal Decision that the Council's decision was based on the correct analysis and that their approach to determining the application was reasonable. I do not consider that it is necessary to dissect the Officer's Report as if it were an examination paper because, whilst there are errors within it, those faults do not undermine the Council's formal decision.
6. I am aware in broad terms of enforcement action taken by the Council in respect of the nearby properties. My decision in this appeal was not based on whether the Council acted in a consistent manner as that is not the correct

approach for dealing with such appeals. The main issue was whether the differences between Sabrina as built compared with the planning approval for Sabrina were so material as to take Sabrina outside the scope of the planning permission.

7. I note the applicant's concern about the Council referring to "change of use". However, this was not the Council's approach in determining the application or defending its decision through the appeal process.
8. Further, I have read the e-mail sent to the Paul Edwards before the relevant application was made to the Council. The Council state that the information provided at that stage was limited. Whilst the e-mail is inconsistent with the final determination of the application that is not entirely unexpected nor does it amount to unreasonable behaviour. When the Council had the application before them they were able to take legal advice on all the information submitted and come to a fully informed decision.
9. There is no evidence before me to support the assertions made on behalf of Paul Edwards that the Council's starting point in the determination of the application was the planning merits of allowing a dwelling in this location.

Conclusion

10. I have considered all the other matters raised but for the reasons explained above I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Tim Belcher

Inspector