



Costs Decision

Site visit made on 3 April 2019

by Elizabeth LawrenceBTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2019

Costs application in relation to Appeal Ref: APP/C3620/W/18/3210064 Melton Hall Farm, Rusper Road, Newdigate, Dorking, RH5 5BX.

- 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 & Mrs I Osborne-Patterson for a full award of costs against Mole Valley District Council.
 - The appeal was against the refusal of planning permission for the conversion of stable block to residential accommodation ancillary to the main dwelling, without complying with a condition attached to planning permission MO/2005/0452/PLA.
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Decision

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

Reasons

2. The Planning Practice Guidance (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.
3. As originally submitted the site plan included a vehicular access and garden area that were not included in the 2005 approval. Together with the reference to policies relating to housing provision and new development in general, these appear to have led to uncertainty over what was being applied for. At the same time there were queries relating to whether or not the existing building was a rebuild rather than the approved conversion scheme. As a result, the case officer found it necessary to seek legal advice on two occasions, firstly relating to the status of the appeal building and secondly the application site boundary. This resulted in the site boundary being revised and the application having to be re-advertised. Also, because one of the applicants was a District Councillor the application had to be determined by the Planning Committee which met monthly.
4. These factors were clearly responsible for a series of delays in dealing with the application. From the exchange of emails between the case officer and the appellant's agent it is clear that the agent was kept informed of the reasons for the delays and advised in June 2018 of the Council's concerns regarding the proposal. As such I find that the delays experienced in dealing with the application did not amount to unreasonable behaviour by the Council.
5. The Council has explained that the reference to the Green Belt in the reason for imposing condition 3 was an error which had been picked up in 2005, but not

corrected. This error was explained in the Committee agenda report and verbally at the Committee meeting. As indicated in my Decision the reason for imposing a condition can change and the Council stated in its Committee report that this was required to comply with the Council's restraint policies for development in the countryside. Accordingly, whilst the Council's error was clearly avoidable, it did not result in any identified unnecessary costs in relation to this appeal.

6. In their Committee report the Council refer to the original reason for imposing condition 3 and the reason why it should be retained, with reference to policy ENV3 of the Mole Valley Local Plan (LP), which, amongst other things, relates to the restraint of development in the countryside. LP policy RUD9 is also relevant as it was applicable when the 2005 permission was granted and condition 3 imposed. As detailed in my Decision, no change of use is proposed and LP policy RUD19 is not directly relevant to the proposal.
7. The Council has stated that the main changes introduced in the revision of the National Planning Policy Framework 2012 were set out in a Committee addendum report and there is no evidence that the 2018 revised version unduly influenced the Committee Members decision. In any event, both the 2012 and 2018 versions encourage making effective use of land and full use of existing buildings for homes.
8. At the application stage the appellants stated that they were seeking the removal of condition 3 and made no reference to the imposition of any new or amended conditions. Also, whilst they refer to the building remaining ancillary, the applicants referred to policies aimed at boosting the supply of dwellings and the re-use of buildings in the countryside for dwellings. They also referred to a decision relating to the removal of a condition to enable a converted barn to be occupied as a single dwelling without being tied to 25 acres of land as being material and not dissimilar to the appeal proposal. In addition, there was an absence of details relating to how the appellants were proposing to use the appeal building.
9. Not only did this clearly lead to confusion as to what was proposed, it appeared that the appellants were not seeking the imposition of any revised or new conditions. It was not until the appeal stage that the appellants gave further clarification on the ancillary nature of the proposal and referred to the appropriateness and acceptability of a broader occupancy condition. This was with reference to an appeal decision and a 2018 planning permission granted by the Council where such conditions had been imposed. For these reasons, in this instance, I do not consider that the Council's approach to dealing with and determining the application was unreasonable, or that their actions resulted in an unavoidable appeal.
10. Finally, whilst there are a number of drafting errors in the Committee report, there is no evidence to suggest that these would have changed the Committee's decision to refuse the application.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Elizabeth Lawrence

INSPECTOR