



Costs Decision

Site visit made on 16 July 2019

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Costs application in relation to Appeal Ref: APP/Z1510/W/19/3224599 Newberries House, High Street Green, Sible Hedingham CO9 3LG

- 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 and Mrs Simpson for a full award of costs against Braintree District Council.
 - The appeal was against the imposition of condition no. 6 on planning permission Ref 18/01845/FUL for a replacement detached garage building with hobbies and storage accommodation above granted on 13 February 2019.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Irrespective of the outcome of the appeal, the National Planning Practice Guidance (PPG) states that costs may only 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 applicants state that the Council has acted unreasonably in that it has gone against the advice of its professional Officers without good reason and failed to substantiate the reasons for imposing condition no. 6. They therefore consider that the subsequent appeal against the imposition of this additional condition has caused them unnecessary expense.
4. The PPG indicates that local planning authorities will be at risk of an award being made against them if they impose a condition that does not comply with the relevant guidance in the National Planning Policy Framework (the Framework).
5. Members do not have to accept the advice of their Officers. However, when they depart from such advice, they must give substantive planning reasons for doing so.
6. From the evidence before me, it would appear that Members could see the relationship between the proposed garage and Carters Barns on a submitted drawing. Despite the advice from Officers that this relationship was acceptable, condition no. 6 was still imposed. I have no substantive evidence before me to show that this was done following an objective assessment of the proposal. Neither do the minutes of the Committee Meeting provide me with any planning reasons for the imposition of this condition. Consequently, whilst I note that condition no. 6 was imposed following a representation from a

neighbour, I consider that Members have failed to justify their decision to impose it at appeal, and I have subsequently found that it fails the tests set out in the Framework.

Conclusion

7. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described by the PPG has been demonstrated and that an award of costs is justified.
8. 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 Braintree District Council shall pay to Mr and Mrs Simpson, the costs of the appeal proceedings described in the heading of this decision.
9. The applicants are now invited to submit to Braintree District 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.

M Heron

INSPECTOR