
Costs Decision

Site visit made on 3 July 2019

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2019

Costs application in relation to Appeal Ref: APP/M2270/W/18/3216031 Free Heath Buildings, Free Heath, Wadhurst, East Sussex TN5 6RB

- 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 Alex Levitt for a full award of costs against Tunbridge Wells Borough Council.
 - The appeal was against the refusal of planning permission for conversion of a redundant agricultural building to holiday accommodation.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 process¹. The applicant contends that he has incurred additional expense through the Council acting unreasonably firstly by not accepting the judgement of its qualified structural engineer and secondly by failing to provide counter evidence by a suitably qualified professional advisor.
3. The Council is not obliged to accept at face value the findings of a professional consultant on a planning application proposal. This is the case whether the consultant's report relates to structural matters or to some other specific area of expertise such as highway or ecological matters. However, the Council is expected to scrutinise submitted expert conclusions and to act on its findings. The Council did this. The Council's case was based upon perceived inconsistencies between the December 2017 and May 2018 structural reports in relation to whether the works could be regarded as a conversion. Its concerns were summarised in an email to the applicant's agent dated 10 July 2018 to which it is claimed no reply was received and hence refusal of the application.
4. A Council will not have recourse to areas of expertise in relation to all specialist subject areas that are relevant to a planning application proposal. Nor is it essential that it obtains a response from its own or a commissioned professional advisor before responding to a consultant's report. In many instances, as with the appeal proposal, a well-reasoned response can be provided by a planning officer in relation to relevant planning matters.

¹ Paragraph: 030 Reference ID: 16-030-20140306

5. The applicant has sought to respond to the Council's concerns at the appeal stage. But this has not resulted in additional expense given the closure of dialogue at the application stage and the remaining need to respond to the Council's concerns that had been clearly set out and reasoned. Although I have reached a different conclusion to the Council on the planning merits of the case, this does not mean that the Council has acted unreasonably in raising concerns about perceived inconsistencies in the two structural reports, nor in the conclusion reached.

Conclusion

6. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated.

Rory MacLeod

INSPECTOR