
Costs Decision

Site visit made on 23 July 2019

by I Bowen BA(Hons) BTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 September 2019

Costs application in relation to Appeal Ref: APP/B1225/W/19/3226095 Calvedon, Chaldon Herring, Dorchester DT2 8DN

- 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 Purbeck District Council for a full award of costs against Mr & Mrs D Redhouse.
 - The appeal was against the refusal of planning permission for new house in garden.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is made by the Council (the applicant) on the substantive grounds that the appeal had no reasonable prospect of succeeding. Specifically, it is claimed that pre-application advice was unequivocal in stating that the proposals would not be acceptable because of the impact on the Chaldon Herring Conservation Area and the setting of the adjacent Grade II listed building.
4. The applicant is further aggrieved that, in its view, that advice was not adequately reflected in the appellants' Design and Access Statement (DAS) which accompanied the planning application. This, it is contended, had the potential to falsely portray the Council's position as being one of support for the proposal. Overall therefore, the applicant's view is that the appellants have shown unreasonable behaviour necessitating needless time and expense in contesting the appeal.
5. Details of the pre-application advice was submitted as evidence to the appeal and it clearly highlights areas of concern consistent with the subsequent refusal notice. I note that these were, to an extent, addressed through a revision to the proposed scheme prior to making the formal planning application.
6. In any event, I am mindful that pre-application advice is necessarily informal in nature. In the same way as a Council cannot be bound by any such advice it may have offered, an applicant is entitled to form a judgement as to whether to proceed with a formal planning application and, if necessary, an appeal in the light of such advice. Indeed the appeal process exists to adjudicate in cases

where the judgement of the decision-maker and that of an applicant for planning permission differ.

7. In this case, the appellants sought to dispute the applicant's decision on the proposal and, crucially, set out full and cogent reasons for doing so. Indeed, whilst I found the proposal would give rise to unacceptable harm in respect of the effect of the proposed development on the Chaldon Herring Conservation Area, I concurred with the appellants that no such harm would result on the setting of the Grade II listed Lilac Cottage in my decision.
8. Furthermore, whilst the applicant is concerned over the content of the DAS, which is dated December 2018, I note that the appellants' 'Planning Statement incorporating Heritage Statement' dated October 2018 clearly acknowledges areas of disagreement. In any event, the content of these documents has little bearing on the appeal proceedings which were pursued by the appellants in response to the formal refusal notice.
9. I therefore consider the appellants' case was reasonable and it was not inevitable that the appeal would fail.

Conclusion

10. For the above reasons, I find the appellants did not act unreasonably in making the appeal and did not cause any unnecessary or wasted expense on the part of the applicant. Having regard to the PPG, an award of costs is not justified.

Ian Bowen

INSPECTOR