
Costs Decision

Site visit made on 2 September 2019

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2019

Costs application in relation to Appeal Ref: APP/V2255/D/19/3233959

1 Brenley Bridge Cottages, Brenley Lane, Boughton Under Blean ME13 9LZ

- 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 C Riches (c/o C Riches Properties Limited) for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for alteration to domestic garage to provide annexe to main dwelling house.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The Planning Practice Guidance ('PPG') advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. Although the PPG states that behaviour and actions at the time of the planning application can be considered in the Inspector's consideration of whether or not costs should be awarded, it makes clear that costs can only be awarded in relation to unnecessary or wasted expense at the appeal, during the process by which the Inspector's decision is reached.
4. I do not have the benefit of being party to the meeting of the relevant Planning Committee but I have been provided with the relevant minutes. I note that members of the Council discussed concerns over the future use of the building but the minutes are also clearly record that members were aware that they '*could only consider the application on its merits and not what may happen*' but ultimately that there would be '*demonstrable harm to the character and appearance of the countryside*'.
5. The Council's reason for refusal set out in the decision notice is complete, specific and relevant to the application, clarifying such effects on character and appearance. It also clearly states the policies of the development plan that the proposal would conflict with, which are in accordance with the most up-to-date national policy. In my experience, it is common for such resolutions made by members to be clarified and articulated by officers into a reason for refusal in order to be set out on the Council's formal decision notice. There is no substantive evidence this amounts to unreasonable behaviour. Because of the nature of the reason for refusal and the inherent level of subjectivity and site specific bespoke considerations involved, although capable of being a

significant material consideration, the appeal decision at Ashfield Court Farm, Newington is not determinative.

6. The appellant may well consider the changes to be minor but the concerns of members are no less valid. Whilst I appreciate that the appellant does not agree with the Council's consideration and opinions relating to the effect of the proposal, the issue at the heart of the appeal involves matters of planning judgement. Notwithstanding the original positive officer recommendation, the committee was not bound to accept the advice of officers especially where an exercise of such judgement is required. That the Council refused permission on that basis contrary to an officer recommendation, does not amount to unreasonable behaviour.
7. Whilst I have formed my own view and allowed the appeal, this is based on my own observations and the evidence as put to me solely by the parties. Given their concerns and conclusions planning permission should not clearly have been granted and an appeal was inevitable.
8. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, an award of costs is not justified.

Richard Aston

INSPECTOR