

Costs Decisions

Site visit made on 22 October 2019

by R Barrett BSc (Hons) MSc Dip UD Dip Hist Con MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 08 November 2019

Appeal Ref: APP/W1715/W/19/3223341

Myrtle Cottage, Lands End Road, Bursledon SO31 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 M Blackman and J de Pina for an award of costs against Eastleigh Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for development described as 'two storey rear extension with glass link to existing cottage'.
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Appeal Ref: APP/W1715/Y/19/3223344

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- 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 M Blackman and J de Pina for an award of costs against Eastleigh Borough Council.
 - The appeal was against the refusal of the Council to grant listed building consent for works described as 'two storey rear extension with glass link to existing cottage'.
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Decisions

1. The applications for a full award of costs are refused.

Procedural Matter

2. The applications for costs refer to applications for planning permission and listed building consent for the same development and works. In the interests of brevity, whilst each application has been judged on its individual merits, I am dealing with both in one decision letter.

Reasons

3. Planning Practice Guidance (PGG) paragraph 030¹ advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
4. In determining these, the Council made a decision which did not accord with the advice of its built heritage consultant. The Council gave full consideration to those comments and came to an alternative view on the acceptability of the appeal proposals. This is set out in the officer's report. I have no substantive evidence that this matter prejudiced other consultees or third parties. The

¹ ID 16-030-20140306

decision to grant or refuse a planning application or listed building consent ultimately rests with the Council, taking into account all relevant planning considerations. In this regard, I consider that the Council acted reasonably.

5. In addition, the appellant advances that the Council's decision is based on vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis. It further suggests that the Council's reason for refusal was unsubstantiated by evidence at appeal. The Council, in its officer's reports, sets out its concerns for the effect of the proposed development and works. Those concerns are based on objective evidence and are substantiated. That objective evidence included a site visit, sufficient to enable the Council to understand the context and impacts of the proposed development and works. In this regard, I consider that the Council acted reasonably.
6. It is unfortunate that there was a post determination delay in the provision, to the appellant, of the full version of the built heritage consultant's comments. In this respect the Council acted unreasonably. However, the full version of the built heritage consultant's comments were provided post determination and at appeal. More timely provision of those comments would not have avoided the need to appeal the Council's decisions. Further, no substantive evidence is before me to suggest that this matter would have restricted the appellant from instructing a planning consultant or submitting an appeal. In this respect, it would not have resulted in unnecessary or wasted expense.

Conclusion

7. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG paragraph 030, has not been demonstrated and a full award of costs is therefore not justified.

R Barrett
INSPECTOR