



Costs Decision

Site visit made on 16 July 2019

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2019

Costs application in relation to Appeal Ref: APP/B3410/W/19/3227956 114 Hopley Road, Burton-on-Trent DE13 9QA

- 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 Mick Upton for a full award of costs against East Staffordshire Borough Council.
 - The appeal was against the refusal of planning permission for the change of use of an existing garage/games room building to form an independent dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance ("the 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 process.
3. The PPG indicates that local planning authorities will be at risk of an award being made against them in the following circumstances:
 - If they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and
 - If they refuse planning permission on a planning ground capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the proposed development to go ahead.
4. The applicant contends that the planning application was accompanied by evidence which demonstrated the proposal's compliance with Policy H1 of the Anslow Neighbourhood Plan (2014) ("the ANP") and with Policy SP8 of the East Staffordshire Local Plan (2012) ("the ESLP").
5. However, I have concluded in my Decision on the appeal that the existing building does not form a rural building of the type envisaged by exceptions within these policies, for similar reasons to those provided by the Council in its report on the application. It follows, therefore, that I do not concur with the submission that the evidence demonstrates the proposal's accordance with policy in this regard. In view of this I consider that the Council did not act unreasonably in declining to permit the application.

6. Turning to the matter of potential conditions, whilst I have found that the proposal would have an acceptable effect on living conditions, I have found that it would result in unacceptable harm on another matter which has led me to dismiss the appeal. I have not concluded that suitable conditions would overcome this harm and enable the proposed development to go ahead. Therefore the circumstances that risk an award of costs on this ground, as described above, are not present in this instance.
7. As the application for a full award of costs has not succeeded based on my above conclusions, I have considered whether only a partial award is justified. However, I have not identified unreasonable behaviour by the Council in respect of any particular aspect or part of the appeal process. Accordingly, I conclude that a partial award of costs is not justified.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

C Beeby

INSPECTOR