The Planning Inspectorate

Costs Decision

Site visit made on 2 December 2019

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2019

Costs application in relation to Appeal Ref: APP/C1570/W/19/3236659
Barn at Hill House, Cambridge Road, Quendoon, Essex CB11 3XJ

- 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 Roy Harris for a full award of costs against Uttlesford District Council.
- The appeal was against the refusal of planning permission for a development described as 'barn conversion extensions and alterations with proposed new vehicular access'.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Irrespective of the outcome of the appeal, the Planning Practice Guidance (PPG) states that an award of costs may only be made against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. The PPG also states that a Council is at risk of an award of costs if it prevents or delays development which should clearly be permitted, if it relies on vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis or it refuses planning permission on a planning ground capable of being dealt with by planning conditions.

3. The planning application was recommended for approval by the Planning Officers following no objections being received from the Conservation Officer. For the reasons given in my formal decision the comments from the Conservation Officer are not determinative. Members of the planning committee were entitled to reach their own conclusions on whether the proposed works to the boundary wall would harm the character or appearance of the CA, particularly as flint walls and railings are identified as important features of the Conservation Area (in the conservation area appraisal).

4. Moreover, the planning committee Members visited the site so would have been well placed to appraise the impacts of the appeal scheme, including a subjective analysis of whether the proposal would harm the outlook from neighbours. These were reasonably articulated in the reason for refusal, precise and made with reference to the development plan. As such, the Council's findings in respect of the impacts of the appeal scheme on the conservation area and the outlook of neighbours were not unreasonable.

5. The Council's second reason for refusal specifically refers to overlooking from the windows of the proposed conversion causing a loss of privacy, as opposed to overlooking from the proposed garden. This is a precise concern grounded in development plan policy. That said, the concerns relate to windows that would not directly face The Kings Head or would be high level, although I accept the barn is on higher ground and oblique overlooking may be possible.

6. Nevertheless, there is no evidence before me, such as minutes, to suggest the committee Members proactively considered the appropriateness of finishing the north facing windows in obscured glass. This is significant because such an approach, taken with the orientation of the windows, would mitigate the impacts on privacy. This was a point made by the Planning Officer in their report. As such, the Council refused planning permission on a ground capable of being dealt with by planning conditions. This is unreasonable behaviour that has put the appellant to the unnecessary expense of having to address the impact on privacy through the appeal.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has occurred, but only in so far as it relates to the Council's concerns over the impact on privacy. Thus, a partial award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Uttlesford District Council shall pay to Mr Roy Harris the costs of the appeal proceedings described in the heading of this decision, but only in so far as they relate to the matter of privacy; such costs to be assessed in the Senior Courts Costs Office if not agreed.

9. The applicant is now invited to submit to Uttlesford District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Graham Chamberlain
INSPECTOR