



Costs Decision

Site visit made on 2 December 2019

by Graham Wyatt, BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th January 2020

Costs application in relation to Appeal Ref: APP/Y2620/W/19/3236424 Westgate Barn, Warham Road, Binham, Fakenham, NR21 0DQ

- 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 & Mrs John Bruce for a full award of costs against North Norfolk District Council.
 - The appeal was against the refusal of planning permission for the change of use, conversion of an agricultural barn to a dwelling – Current application permission PF/18/0921.
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Decision

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

Reasons

2. National Planning Practice Guidance (the Guidance) advises that costs may only 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 appeals process. The Guidance further sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. Additionally, the Guidance states that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The applicant refers to several matters within the Guidance that they consider have resulted in unnecessary expense in the appeal process. Namely, that the Council prevented or delayed a development which should have clearly been permitted, failed to produce evidence to substantiate each reason for refusal on appeal, was vague, generalised or inaccurate assertions about a proposals impact and not determining similar cases in a consistent manner.
4. Although I accept that the behaviour and actions at the time of the planning application can be taken into account when considering whether or not costs should be awarded, the Guidance makes it clear that costs can only be awarded in relation to unnecessary expense at the appeal. Thus, while I note the allegations raised by the applicant in relation to the determination of the planning application at the Development Committees referred to, these are not related to the appeal process and other mechanisms exist to resolve the matters highlighted. Moreover, there is no compelling evidence before me to demonstrate that the Development Committee resolved to grant planning permission on 28 March 2019 or that it was obliged to reject a further officer's recommendation to refuse planning permission at its meeting on 6 June 2019.

5. Furthermore, the officer's report to the Development Committee and the Council's reason for refusal and subsequent appeal statement, clearly sets out why the appeal proposal was considered unacceptable and is reflected in its reason to refuse planning permission when assessed against policies of the Development Plan. The reason for refusal also refers to the "extent of newbuild" which would include the proposed garage and store building. Moreover, the policies as cited on the decision notice are all relevant to the proposal when the Development Plan is it is considered as a whole. Thus, reference to these policies is neither misleading or unnecessary. I do not find the Council's decision to refuse planning permission for application PF/18/1524 unreasonable.
6. Moreover, I note that the application for costs was made on 26 November 2019, after a subsequent application¹ (the third application) was granted planning permission for the conversion of the barn. Therefore, while the difference between the third permission and the appeal proposal was the garage building, the Council's written statement makes it clear that it considered the development approved under the third application as a fallback position available to the applicant, favourable to the appeal proposal which involves fewer substantive extensions and alterations and which does not include a double detached garage building. Moreover, the size of the converted barn and other such matters raised by the applicant are ones that relate to the planning merits of the development, and not the appeal process.
7. Therefore, although the Council accepted a scheme to convert the barn after it had refused planning permission similar development, I do not consider the Council persisted in its arguments, as the appeal proposal is manifestly different to that approved under the third application through its inclusion of a detached double garage and store building. Furthermore, despite the photomontage of developments in the vicinity, the applicant has not presented sufficient evidence to demonstrate that the Council has failed to determine similar developments in a consistent manner when considering planning applications for the conversion of rural buildings.

Conclusion

8. Thus, I am satisfied that the Council gave sufficient consideration to the planning application. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated by the appellant. Consequently, an award of costs is not justified.

Graham Wyatt

INSPECTOR

¹ PF/19/1062 dated 12 September 2019