
Costs Decisions

Site visit made on 15 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: 10th February 2020

Appeal Ref: APP/Y3615/W/19/3230485 (Appeal A)

Burchatt's Farm Barn, London Road, Guildford GU1 1TU

- 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 Philip Hehir, for an award of costs against Guildford Borough Council.
- The appeal was against the refusal of the Council to grant planning permission for development described as 'change of use from D2 (assembly and leisure) to D1 (non-residential institution) with designated first floor flat (no change of use involved) and internal alterations, and listed building consent for a series of minor internal alterations'.

Appeal Ref: APP/Y3615/Y/19/3230507 (Appeal B)

Burchatt's Farm Barn, London Road, Guildford GU1 1TU

- 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 Philip Hehir for an award of costs against Guildford Borough Council.
 - The appeal was against the refusal of the Council to grant listed building consent for works described as 'change of use from D2 (assembly and leisure) to D1 (non-residential institution) with designated first floor flat (no change of use involved) and internal alterations, and listed building consent for a series of minor internal alterations'.
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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 (PPG) 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 this regard, the appellant suggests that the Council, in failing to determine the proposed change of use under Regulation 3 of the Town and Country Planning General Regulations 1992, acted unreasonably. I do not have the full

¹ ID 16-030-20140306

reasons for the Council's decision in this regard, but that decision was the Council's to make and is not within the scope of these appeals, which deal with the planning and listed building consent applications. In this respect, therefore, I consider that the Council acted reasonably. Further, I have no substantive evidence that this would have affected the speed or complexity of decision making or influenced the need for the appeals. I come to this conclusion on the basis that the Council had concern regarding the proposed change of use and works to the listed building in any event.

5. Further the appellant suggests that in refusing the appeal applications on the basis of the loss of a valued community facility, the Council acted unreasonably. Whilst I came to a different view to the Council on this matter, that was based on planning judgement and interpretation of paragraph 92 of the National Planning Policy Framework. On this matter, at appeal the Council substantiated its reason for refusal, which was based on legitimate planning matters. In this regard, I consider that it acted reasonably.
6. It is also suggested that the Council acted unreasonably in considering the proposed internal alterations as part of the change of use application and this resulted in the listed building consent application being pre-judged. The works to the listed building, which included some external works, were necessary to accommodate the proposed change of use. In this respect, I consider that the Council acted reasonably. In any event the two applications were considered together. The Council had legitimate concerns regarding the nature and extent of proposed works to the listed building and on that basis, I have no substantive evidence that this matter would have affected the need for either appeal.
7. The appellant further suggests that the listed building consent application was not discussed by the Committee. Whether this is the case or not, at appeal the Council substantiated its reason for refusal in respect of the alleged harm to the special architectural or historic interest of the listed building, which it considered would not be outweighed by public benefits. Its case was logical based on planning matters and in this respect, I consider that the Council acted reasonably.
8. In determining these applications, the Council made a decision which did not accord with the advice of its professional officers. The views of the Council's conservation officer are set out in the officer's report. I have no substantive evidence that those comments were not taken into account when the Council made its decisions. The 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. Further I have no substantive evidence before me that the Council took its decisions for non-planning reasons and in this regard, I find that the Council acted reasonably.

Conclusion

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

R. Barrett INSPECTOR