
Costs Decision

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 June 2020

**Costs application in relation to Appeal Ref: APP/X0360/W/19/3243419
Three Gables, The Devils Highway, Riseley RG7 1XR**

- 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 Wokingham Borough Council for a full award of costs against Mrs Merelina Martinez.
 - The appeal was against the refusal of planning permission for an extension over an existing garage and alterations to an existing roof.
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Decision

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

Reasons

2. The Planning Practice Guidance (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 planning application has been refused solely on the basis that the ecological information submitted has not demonstrated that the proposed development has taken into account protected species being present on the site, and how the impact on them could be mitigated.
4. National policy states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. Furthermore, national policy states that surveys should only be required where there is a reasonable likelihood of species being present and affected by the development. It advises that such surveys, such as that for bats, should be carried out before planning permission is granted and that surveys should only be required by condition in exceptional circumstances.
5. The appellant's application submissions confirm further detailed survey evidence is necessary in the form of emergence /re-entry surveys during the summer months and the applicant's Ecologist agrees with this. In light of national policy, the applicant states that it is difficult to see how the appeal Inspector could come to a different view set out in its case which indicates that planning permission should be refused.
6. Planning Practice Guidance states that before making any appeal, the party seeking permission should first consider re-engaging with the local planning

authority to discuss whether any changes to the proposal would make it more acceptable and likely to gain permission (i.e. submission of the information suggested by the appellant's specialist) and that applicants should give consideration to the merits of the case, and whether there are strong grounds to contest the reasons for refusal of permission before submitting an appeal.

7. In dismissing the appeal, I have taken account of national policy as set out in my decision. However, there is an element of judgement in assessing whether there could be 'exceptional circumstances' in justifying a condition requiring further surveys. The appellant has carried an extensive survey of the existing dwelling identifying a bat roost and opportunities for further roosting opportunities, and 'Worst case scenario' mitigation has been put forward in an updated Preliminary Bat Roost Assessment (UPBRA). In this regard, the appellant has put forward a ground of appeal that was reasonable. It was not a ground with no reasonable prospect of succeeding.
8. There are differing and conflicting views from each main party regarding dialogue and discussion, even at appeal stage. Nevertheless, there are sufficient grounds for the appellant to have pursued this appeal for the reasons indicated, especially given the UPBRA.
9. For all these reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Jonathon Parsons

INSPECTOR