



Costs Decision

Site visit made on 15 June 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2020

Costs application in relation to Appeal Ref: APP/W3005/W/20/3244786 Whiteborough Farm Cottage, Chesterfield Road, Huthwaite NG17 2QJ

- 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 J Thompson for a full award of costs against Ashfield District Council.
 - The appeal was against the refusal of planning permission for the recladding of existing agricultural barn.
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Decision

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

Reasons

2. The application for an award of costs, the Council's response and the applicant's further response were submitted in writing and the content will be familiar to both parties. Consequently, I shall not repeat those submissions in full within this decision. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour or no wasted expense an award will not be justified.
3. The applicant seeks a full award of costs on the basis that they have incurred additional costs in having to appeal the decision. The applicant contends that the Council acted unreasonably as they misinterpreted Policy EV2. The applicant asserts that it was unreasonable for the Council to insist that the applicant had to demonstrate that the building was in agricultural use or justify a need for the development.
4. The Council claims that they tried to engage with the applicant's agent as the information provided was contradictory and did not show that the resulting building was being used for agricultural purposes. They also emphasise that, in line with Policy EV2, they considered that the development affects the character and openness of the countryside and not knowing the use of the building makes the judgement difficult to assert whether the proposed development is appropriate in the countryside. The Council consider that they have not acted unreasonably after taking fully into account the planning history and conflicting information submitted.

5. The relevant criteria of policy EV2 does not specifically require justification or a need to demonstrate the use of a building, however it does require an exercise of planning judgement in relation to design and the effect of proposals on the character and appearance of the surrounding area. The associated appeal decision found favour with the applicant's case in that regard. It is clear within the Officer's Report that the Council considered that the cladding has increased the bulkiness of the building which in turn has adversely affected the character of the countryside and its openness. The refusal reason was clear and sufficient evidence was submitted to support the Council's policy stance. The fact that my recommendation went against the Council is not evidence of unreasonable behaviour. Thus, it was not unreasonable for the Council to have a different view having regard to the nature of the case.
6. The Council did refer to the use of the building and at least part of the reason for refusal appeared to be based on concerns that the proposal was not required for an agricultural purpose. As set out in the associated decision that was not strictly relevant to the issue of whether the proposal complied with policy EV2, given the established use of the barn. However, it would appear that the Council had sought clarification in that regard and that alone did not lead to the refusal of the proposal and the Council provided adequate justification of its decision in respect of the visual impact of the scheme. Consequently, the reference to other matters did not lead to the need to submit an appeal that would otherwise have been unnecessary and did not lead to any substantive additional cost in the appeal process.
7. The applicant has not shown that the Council's refusal of planning permission was unreasonable. In the absence of any unreasonable behaviour there are no grounds for an award of costs and a full or partial award is unjustified.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

8. I have considered all the submitted evidence and the Appeal Planning Officer's report, for all the above reasons, I concur that this application should be refused.

Chris Preston

INSPECTOR