



Costs Decisions

Site visit made on 3 August 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27th August 2020

Application A - Costs application in relation to Appeal Ref:

APP/C1570/W/20/3245813

1 Wells Cottages, Robin Hood Road, Elsenham, Essex CM22 6ED

- 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 and Mrs Hampson for a full award of costs against Uttlesford District Council.
 - The appeal was against the refusal of planning permission for development described as 'single storey extension with glazed link to create two additional bedrooms and a bathroom to the rear of the property. Extension to existing bathroom to create a new en-suite to the master bedroom and internal alterations'.
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Application B - Costs application in relation to Appeal Ref:

APP/C1570/Y/20/3245814

1 Wells Cottages, Robin Hood Road, Elsenham, Essex CM22 6ED

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Hampson for a [partial] [full] award of costs against Uttlesford District Council.
 - The appeal was against the refusal of listed building consent for works described as 'single storey extension with glazed link to create two additional bedrooms and a bathroom to the rear of the property. Extension to existing bathroom to create a new en-suite to the master bedroom and internal alterations'.
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Decisions

1. Application A - The application for an award of costs is refused.
2. Application B - The application for an award of costs is refused.

Reasons

3. Irrespective of the outcome of an 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 local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.
4. The Council refused the appeal schemes even though its Historic Buildings Officer had given pre application advice that the proposal, save for the removal of an internal stud, would be broadly acceptable. In considering the appeal

schemes the Council instead heeded the advice given by an unnamed Conservation Officer at Essex County Council. I can fully appreciate why this would be frustrating to the applicants. Particularly so as there are clearly some limitations with this advice, as it fails to reference who gave it, what their professional background is and whether they visited the site.

5. Although the pre application advice was apparently given without clarification that it was offered without prejudice to the outcome of any subsequent applications, it nevertheless appears to be the informal professional view of a single officer based upon a 'very rough' sketch scheme. Therefore, the comments expressed were not the formally adopted view of the Council as the local planning authority and seem to have apparently been given without internal scrutiny or sign off. As such, the Council were entitled to reach the decision it did as the pre application advice was not binding upon it.
6. There is an element of subjective judgment involved in assessing the appeals and I have no doubt the advice originally given was a genuinely held professional opinion. However, as it transpires, the Council were correct to afford more weight to the views of the Conservation Officer at Essex County Council than the earlier advice imparted by the Historic Building's Officer because, for the reasons given in my formal decision, the proposal would fail to preserve the listed building.
7. The Council clearly explained why it was departing from the advice of its Historic Buildings Officer and its decision to do so was properly articulated and taken following consultation with a Conservation Officer at Essex County Council. Accordingly, in this instance a substantive error has not occurred from the Council departing from the pre application advice of its Historic Buildings Officer.

Conclusion

8. Taking the above points together I do not consider the Council's decisions were substantively flawed and therefore my overall conclusion is that there was no substantive failure within the meaning of the PPG. As such, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not occurred.

Graham Chamberlain,
INSPECTOR