
Costs Decision

Site visit made on 5 August 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th September 2020

Costs application in relation to Appeal Ref: APP/A1530/W/20/3251468 Picketts Farm, Church Road, Fingringhoe, CO5 7BL

- 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 W.A.Ketley & Son for a full award of costs against Colchester Borough Council.
 - The appeal was against the refusal to grant prior approval under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q, Paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the conversion of an agricultural building into a dwelling.
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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. It states examples of unreasonable behaviour include vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
3. The appellants consider that the appeal was unnecessary and as a result of the Council's unreasonable behaviour in relation to its handling of the application. However, it will be seen from my decision that I have found that the siting of the building makes the proposed development undesirable. Consequently, the Council has not acted unreasonably by preventing a proposal which should have clearly been permitted.
4. The reasons have been adequately substantiated by the Council in its Officer Report and appeal statement. The Officer Report demonstrates how the proposal would result in an unacceptable form of development as the report has made clear reference to the siting of the building and its proximity to livestock buildings and how this is likely to result in unsatisfactory living conditions for future occupiers of the dwelling. Therefore, I consider that sufficient evidence has been provided within these documents to demonstrate why it is considered unacceptable.
5. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.

6. I accept that little evidence was put forward by the Council to support the second reason for refusal relating to potential risks from contamination, however the appellant has not provided any further technical evidence to dispute the Council's claim that the building may be a source of asbestos and as such I do not consider this has resulted in unnecessary or wasted expense on the part of the appellant.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the application for costs is refused.

G. Pannell

INSPECTOR