
Costs Decision

Site visit made on 15 July 2020

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2020

Costs application in relation to Appeal Ref: APP/B1605/W/20/3252582 The New Barn, Ham Road, Charlton Kings, Cheltenham GL52 6ND

- 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 M Casey for a full award of costs against Cheltenham Borough Council.
 - The appeal was against the refusal of planning permission for change of use (in line with permission reference 3192290) and extension to holiday let.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 appellant states that the appeal was unnecessary as the LPA have acted unreasonably by preventing or delaying development that should have been permitted; failing to substantiate the reason for refusal, specifically with regard to justification for the works; made generalised assertions about the proposals impact and not determined the case in a similar manner to other similar proposals.
4. The Council's refusal notice and subsequent notification of the adoption of the Cheltenham Plan, states which policies of the development plan that they find that the proposals are in conflict with, and these are relevant to the appeal proposal. Whilst the Council have not submitted a statement of case, I find that the reason for refusal is adequately supported by the analysis provided within the officer report and why the Council considered the proposal would result in an unacceptable effect upon the character and appearance and associated landscape impact to the AONB. Whilst I do not concur with the Council's argument with regard to visual amenity impacts associated with the proposal, given the sensitive location of the site and nature of the proposal, I believe that the Council were not unreasonable in reaching this view or maintenance of this stance, given that assessment of character and appearance and landscape matters, are a matter of subjective judgement. I do not therefore find that the Council were unreasonable in terms of when and how it reached its decision to refuse planning permission, and do not consider this amounts to unreasonable behaviour.

5. Although the identified policies do not require that justification for such extensions is evidenced, they do seek to control the nature of conversion and associated extension of such building. Whilst I consider the Council to have been unreasonable suggesting that 'insufficient justification' had been provided within their decision notice, this formed just part of the reason for refusal that included character and appearance as discussed above. To my mind having regard to the information before me, I am not persuaded that responding to this matter has resulted in significant or unreasonable additional expense.
6. The appellant has indicated that the Council have been inconsistent in approving other similar proposals within the vicinity of the site. Some detail of these proposals have been provided, although it is important that each case be assessed on its individual merits. As such, I consider that it has not been sufficiently demonstrated that the Council has been inconsistent in their decision making to amount to unreasonable behaviour.

Conclusion

7. For the reasons outlined above, although I consider that the Council acted unreasonably in including a lack of justification within their reason for refusal, I conclude that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated. Consequently, an award of costs is not justified.

Robert Lankshear

INSPECTOR