



Costs Decision

Site visit made on 19 October 2020

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2020

Costs application in relation to Appeal Ref: APP/K2230/W/20/3246765 Barn north of Whitehouse Farm, School Lane, Higham, Rochester, Kent ME3 7JH

- 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 Neil and Serene Harrigan for a full award of costs against Gravesham Borough Council.
 - The appeal was against the refusal of planning permission for erection of a single dwellinghouse, associated landscaping, post-and-rail boundary fencing and ecological enhancements.
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Decision

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

Reasons

2. National Planning Practice Guidance (the PPG) advises that costs may be awarded against a party that has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Unreasonable behaviour on the part of a local planning authority may include making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis or unreasonably refusing planning applications, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The appellant contends that the Council acted unreasonably in failing to give appropriate weight to the fallback position that the barn could legally be converted to a dwelling. The Council failed to carry out a detailed comparison of the extant permission and the development proposed, and therefore did not give due regard to the fallback position in determining the application.
5. The Council responds that it considered the fallback position in determining the application. The extant permission was referred to throughout the Officer's report, but as the development proposed related to the construction of a new dwelling in place of the barn it was necessary to consider the proposal in those terms.
6. Both the approved and proposed developments would result in buildings of similar size and siting on the appeal site. However, they are fundamentally

different developments with the appeal proposal being inappropriate development in the Green Belt as it does not fall under any of the exceptions identified in the National Planning Policy Framework. I do not therefore consider that it was unreasonable for the Council to consider the appeal proposal in these terms. The Council referred to the approved conversion several times in their report and acknowledged that it represented a fallback position. While not specifically stating the weight given to the fallback position in their report, the Council took account of it as a material consideration as part of their overall consideration of the appeal proposal.

7. The weight to be given to any material consideration in determining an application is a matter of planning judgment. I am satisfied that the Council gave appropriate weight to the fallback position in reaching a conclusion that very special circumstances did not exist to justify the inappropriate development.

Conclusion

8. I have considered the points raised by the applicants and the Council, and the evidence submitted with the appeal. I do not find that there was unreasonable behaviour on the Council's part, as described in the PPG, that has directly resulted in unnecessary or wasted expense on the part of the applicants. The application therefore fails, and no award of costs is made.

M Chalk

INSPECTOR