



Costs Decision

Site visit made on 10 November 2020

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2020

Costs application in relation to Appeal Ref: APP/H1515/W/20/3249409 Garth Cottage, Cricketers Lane, Herongate, CM13 3QB

- 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 T Killarney for a full award of costs against Brentwood Borough Council.
 - The appeal was against the refusal of planning permission for demolish existing garage and construct detached dwelling.
-

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.
3. The applicant claims that the Council has acted unreasonably on two grounds which I summarise as:
 - Refusing the application without providing evidence on the harm or justification for the refusal and failing to take account the benefits of the scheme in an overall planning balance.
 - Failing to communicate and work proactively in determining the application.
4. The PPG states that a local planning authority is at risk of an award of costs if it (among other things) fails to produce evidence to substantiate each reason for refusal.
5. The Council's refusal reasons raise three main issues as set out in my main decision. I consider that the reasons for refusal have been adequately substantiated by the Council in its Officer's report. The Council's submissions provided sufficient evidence to support its reasons for refusal which are sufficiently clear and precise. The Council's judgement was a subjective one and it was not unreasonable for the Council to take the view it did. Furthermore, as detailed in my decision I have found that the proposed development would be harmful to the character and appearance of the area.

6. Whilst I have reached a different decision in respect of the other main issues, these are a matter of subjective judgement. Whilst the appellant argues that the Officer's report did not highlight all potential benefits of the scheme, I am not persuaded that this would have led to a different conclusion or avoided the time and expense of making an appeal. Thus, the Council did not act unreasonably in this case. The costs incurred by the appellant in pursuing the appeal were the normal costs arising when the right of appeal is exercised.
7. The applicant states that various unsuccessful attempts were made to communicate with the Council at the application stage. The PPG states that the local planning authority may be at risk of costs if better communication with the applicant would have enabled the appeal to be avoided altogether. I accept that the applicant must have found the perceived lack of communication with the Council frustrating, however, I have no evidence before me to suggest that better communication with the applicant would have resulted in planning permission being granted in this particular case and thus avoiding the need for the appeal and the expense associated with it.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated.

J Davis

INSPECTOR