



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/20/3257474 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 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.
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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.
3. The applicant claims that the Council has acted unreasonably on the following grounds:
 - Refusing the application without justification and failing to provide clear and justified reasons for refusal.
4. The PPG states that a local planning authority is at risk of an award of costs if it (among other things) prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations and /or fails to produce evidence to substantiate each reason for refusal.
5. In this case I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of officers so long as a case could be made for the contrary view.
6. With regard to the effect of the proposal on the setting of the listed building, this is a highly subjective given its close proximity to the appeal site. I also note that the Historic Building & Conservation Officer maintained their objection to the proposal albeit this was very much an 'on balance' judgement. The Council's statement of case further substantiates the refusal reason and whilst

I have reached a different conclusion on this issue in my decision, I do not consider that the Council acted unreasonably in this respect.

7. With regard to the first reason for refusal, the Council's statement of case adequately substantiates why the Council considered the proposal to be contrary to Policy CP1 of the Brentwood Replacement Local Plan. Whilst I have come to a different conclusion, the decision is a matter of subjective judgement. 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.
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