
Costs Decision

Site visit made on 30 November 2020 by A J Sutton BA Hons DipTP MRTPI

by K C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2020

Costs application in relation to Appeal Ref: APP/F1610/D/20/3259655 Westrip Barns, Westrip Farm Lane, Cherington, GL8 8SL

- 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 R Maggs for a full award of costs against Cotswold District Council.
 - The appeal was against the refusal of the Council to grant planning permission for extension to a dwelling.
-

Decision

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

Reasons for Recommendation

2. The Planning Practice Guidance (PPG) sets out that irrespective of the outcome of an appeal, costs may only be awarded where a party has behaved unreasonably, in either a procedural or substantive way, which has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG advises an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Para 045 of the PPG lists types of behaviour which may give rise to a substantive award against local planning authorities. Examples include 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 states that the application was recommended for approval by the planning officer but that the recommendation was overturned as a result of input by the Council's conservation officer, who appears to have considered the proposal on the basis that it involved development associated with either a curtilage listed building or a non-designated heritage asset. He considers this an over-zealous and biased approach and so unreasonable and contends that the application should have been processed on the basis of it being a modest extension to a building that is not a heritage asset.
5. The evidence submitted with the appeal confirms, in initial consultation responses, that the Conservation and Design Consultant for the Council considered the appeal property was a non-designated heritage asset and was within the curtilage of a Grade II listed building. However, subsequent consultation responses demonstrate that the Council took account of the appellant's submissions and amended views regarding heritage assets, during

the application process. This was subsequently reflected in the officer's report, which correctly explains the statutory duty in relation to listed buildings and went on to conclude the proposal would not affect the heritage asset owing to the distance from the listed building. The following paragraph of the report also stated that the appeal property does not meet the Council's test for being a non-designated heritage asset. Indeed, the appellant's statement acknowledges these facts.

6. Furthermore, whilst the officer's report states '*Recommendation - Permit*' it is clear in the assessment of the proposal, that the intention was to refuse planning permission because of the conflict with the development plan. This was duly reflected in the reasons for refusal cited in the Decision Notice. Although it took longer than the statutory period to determine the application, it appears that extensions of time were agreed between the Council and appellant.
7. As such, I find no compelling evidence that the Council in this case has prevented or delayed development which should clearly be permitted. It has exercised its development management responsibilities, relying on reasons for refusal which stand up to scrutiny on the planning merits of the case and has not added to development costs through avoidable delay.
8. The Council substantiated its reasons for refusing the application and I observe nothing which would suggest it has behaved unreasonably in either a procedural or substantive way which has resulted in wasted expense being incurred by the appellant during the appeal process. Therefore, for this reason I recommend that the application for an award of costs is not justified in this case.

Recommendation

9. For the reasons outlined above, and having regard to all other matters raised, I recommend that an award of costs is refused.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

10. I have considered all submitted evidence and the Appeal Planning Officer's report and on that basis an award of costs is not justified in this case. The application is refused.

RC Kirby

INSPECTOR