



Costs Decision

Site visit made on 2 August 2022

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th August 2022

Costs application in relation to Appeal Ref: APP/A1530/W/21/3279464 Blackheath Bulb Company, Nayland Road, West Bergholt, Colchester CO6 3DE

- 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 Blackheath Bulb Company for a full award of costs against Colchester Borough Council.
 - The appeal was against the refusal of planning permission for replacement of three agricultural buildings with three dwellings.
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Decision

1. The application is refused.

Reasons

2. The application is made on substantive grounds, namely that the Council has not substantiated its reasons for refusal, with particular regard to the previously approved development.
3. 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.
4. I have noted in my decision that the previous permission for conversion of the buildings has expired and that this does not form an existing fallback position but that it is a potential fallback given that another application for prior approval could be submitted.
5. Notwithstanding this, at the time the Council considered the application, the permission for conversion was extant and the Council gave due consideration to this position, drawing comparisons between the proposed development and the then existing approved scheme.
6. The Council has fully explained the reasons for its decision, and I have, for the most part, concurred with that reasoning in my decision on the appeal. In particular, I have found that the proposed development would not accord with planning policies for development in the countryside and that it would be visually intrusive and out of character with its rural surroundings. It would be more intrusive and out of character than the previously approved conversion and would be harmful to the significance of the adjacent listed building in terms of affecting its setting.

7. I have found that one of the infrastructure contribution requirements referred to in the fifth reason for refusal has been justified. Although one of the projects for which a community facilities contribution was identified appears to no longer require funding, this does not necessarily mean that the Council's reasoning was inadequate at the time it made its decision.
8. Overall, I have found that the Council's decision was justified. While I have not found fully in the Council's favour with respect to reasons 1 and 5, the Council has provided its reasoning to substantiate those reasons for refusal.
9. I therefore find that unreasonable behaviour, resulting in unnecessary or wasted expense has not been demonstrated.

Nick Palmer

INSPECTOR