

Costs Decision

Site visit made on 7 December 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2023

Costs application in relation to Appeal Ref: APP/J1535/W/22/3292149 Bridge Garage, 24-26 High Street, Ongar CM5 9DZ

- 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 Tony and Bettine Evans for a partial award of costs against Epping Forest District Council.
 - The appeal was against the failure to give notice within the prescribed period of a decision on an application for planning permission for the demolition of existing car showroom and servicing bays and construction of nine, 2-bed apartments, bin and cycle stores, private open space, parking spaces, provision of foul and surface water drainage and landscaping.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. Parties to planning appeals typically meet their own costs. Nonetheless the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The PPG states that examples of unreasonable behaviour include failure to substantiate reasons for refusal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and acting contrary to national or local policy.
4. The Applicant states that the appeal was unnecessary as the proposed development complies with the development plan and should have been approved, whereas the Council failed to determine the application.
5. In this case I have noted the recommendation of the Council's officers. I would note, as a matter of fact, that the scheme falls within a sensitive conservation area location and would be materially greater in scale than the present appeal property. The acceptability of those matters, irrespective of any previous planning application, is intrinsically reliant on judgement rather than a question of absolutes. It will be seen from my decision that I agree with the Council on a series of matters and that there were sufficient grounds for refusing planning permission. It follows that I am satisfied that the Council has shown that it was able to substantiate its recommendation.

6. Whilst I note the grounds raised in respect of the processing of the planning application, I have no substantive evidence before me that leads me to conclude that the Council, in the way it has handled the appeal proposal, has unreasonably prevented or delayed development.
7. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

A Price

INSPECTOR