



Costs Decision

Site visit made on 6 March 2023

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Costs application in relation to Appeal Ref: APP/W2845/W/22/3305996 Sands Farm, Watling Street, Pattishall, West Northamptonshire NN12 8NT

- 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 and Mrs M Kittle for a full award of costs against West Northamptonshire Council.
 - The appeal was against the refusal of planning permission for "proposed demolition and rebuilding of single dwelling with associated internal / external works".
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, in either a substantive or procedural way, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. It is an accepted principle that parties in planning appeals normally meet their own expenses.
3. The applicants claim that the Council's requests for submission of a structural assessment of an unlisted building and an ecology report were unreasonable and resulted in unnecessary expense; and that the Council falsely presented the building on the site as a non-designated heritage asset. The applicants also seek costs for having to prepare an appeal and engage an architect as a result of the Council's unjustified refusal of the application.
4. Although the PPG¹ advises that it is important that all non-designated heritage assets are clearly identified as such, it also says that local planning authorities may identify non-designated heritage assets as part of the decision-making process on planning applications. Therefore, irrespective of the building not being identified as such in the Historic Environment Record, it was not unreasonable of the Council to conclude that the building constituted a non-designated heritage asset as this was a matter of judgement. That conclusion is supported by the applicants' Heritage Statement.
5. Given the Council's assessment that the building constituted a non-designated heritage asset, it was necessary to consider the effect of the proposal on the significance of the asset in determining the application. A structural assessment was required to consider the structural condition of the property and whether it

¹ Paragraph: 040 Reference ID: 18a-040-20190723

could be viably retained. The applicants argue that no such report had been supplied for other applications approved by the Council. However, this is a matter of judgement having regard to the specific circumstances of the case and I consider that the request for a structural assessment was reasonable.

6. The submitted Preliminary Ecological Appraisal found evidence of a bat roost within the building. Such additional information was necessary and justified in order to properly assess whether the proposal would have any effect on protected species and to mitigate any adverse impacts. The applicants contend that the Council have approved comparable applications without an ecology report. However, I do not consider that it was unreasonable of the Council to request an ecology report taking into account the circumstances of the site and the potential presence of protected species. This has not therefore led the applicants to incur unnecessary or wasted expenditure in pursuing the appeal.
7. Based on the evidence, I am satisfied that the Council's officer report and statement of case show that an analysis of the merits of the proposal was undertaken with regard to the specific circumstances of the site, the development plan, national policy and other material considerations. I have reached the same decision as the Council regarding the merits of the proposal. That does not vindicate any procedure or reasoning on their part. However, it establishes that it is not the case that planning permission should clearly have been granted.
8. The Council's decision stands scrutiny relative to the statutory approach to decision-taking. The dispute was a matter of planning judgement, rather than the applicant being forced into an appeal by consequence of unreasonable behaviour. It therefore follows that I cannot agree that the Council behaved unreasonably in preventing a development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

M Ollerenshaw

INSPECTOR