



Costs Decision

Site visit made on 6 July 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2023

Costs application in relation to Appeal Ref: APP/U2235/W/22/3304984 Franks Barn, Blue House Farm, Battle Lane, Marden, Kent, TN12 9AN

- 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 Maidstone Borough Council for a full award of costs against Mr Stuart Kinnersley.
 - The appeal was against the refusal of planning permission for conversion of barn to three bedroom dwelling; provision of parking/turning area and erection of detached 2-bay garage.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 Council considers that the applicant acted unreasonably in the submission of the appeal. This is on the grounds that (a) no structural survey nor a detailed schedule of physical works was submitted with the application to demonstrate that the building was capable of conversion without major or complete reconstruction, and (b) insufficient evidence was submitted to demonstrate that every reasonable attempt had been made to secure a suitable business re-use for the building.
4. The evidence before me indicates that the applicant was aware of the requirements of Policy DM31 of the MLP. However, DM31 does not specifically require a structural survey or schedule of works to accompany a planning application. Similarly, the policy is somewhat open to interpretation with regard to the term 'every reasonable attempt'. In both instances, when dealing with proposals such as the appeal scheme, there is likely to be some need for negotiation between the main parties.
5. The Framework seeks Councils to work proactively with applicants. PPG advises that unreasonable behaviour from an appellant can be for reasons such as only supplying relevant information at appeal when it was requested, but not provided, at application stage.
6. There is no substantive evidence that any additional structural information was sought from the applicant to overcome any concerns the Council had with regard to the structural soundness of the building. Alike, the Council have supplied little information to show they engaged with the applicant over

suitable uses of the building, given that the appellant clearly stated within their evidence why they considered certain uses would not be acceptable in this location.

7. Whilst the Council is not bound to seek such information, proactively working with applicants is encouraged. As such, applicants may reasonably expect to be advised of any shortcomings within their submitted information whilst an application is being determined such that they are provided with the opportunity to comment.
8. It will be seen from my decision that I agree with the Council that the information supplied is not sufficient to fully comply with Policy DM31. Nonetheless, I do not find that by simply failing to provide substantive evidence, the applicant has acted unreasonably. Furthermore, even if the information had been provided, this would not have overcome the Council's other reasons for refusing the application.
9. As a result, it follows that I cannot agree that the applicant has acted unreasonably in this case. As such and based upon the Council's limited response to the applicant's appeal evidence, there can be no question that the Council was put to unnecessary or wasted expense.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred, and an award of costs is not warranted.

A Hickey

INSPECTOR