



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 Mr Stuart Kinnersley for a partial award of costs against Maidstone Borough Council.
 - 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.
-

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 applicant considers that the Council acted unreasonably in seeking costs. The applicant states that the Council have been inconsistent when seeking structural details for the associated appeal building. The applicant has brought to my attention application ref: MA/20/505952/FULL. However, as I have found with the associated decision, I cannot be sure, based on the information provided to me, that the Council did not have concerns over the structural suitability of the building and has been inconsistent in their decision-making.
4. The Council found that the appeal scheme did not comply with the requirements of Policy DM31. It was the Council's view that insufficient evidence to demonstrate the building was capable of conversion without major or complete reconstruction or that the application demonstrated that every reasonable attempt had been made to secure a suitable business re-use for the building was supplied.
5. I do not find the Council acted unreasonably, as any update provided would have required further information and consultation. It is, therefore, my view that the Council acted in a reasonable manner in determining the application and are not bound to request further information and therefore the appeal could not have been avoided.
6. I note the applicant's comments with regard to not being able to overcome all of the Council's reasons for refusal and therefore progressing to appeal with the additional information. However, as I identified in the main decision, 'The Procedural Guide to Planning Appeals – England' states that the appeal process

should not be used to evolve proposals, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

7. It is unfortunate that the applicant has been distressed by the Council seeking costs. However, the Council is entitled to do so, and there is nothing before me to suggest this was done in order to pressure the applicant into withdrawing the appeal.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Accordingly, I find that the costs application should fail, and no award is made.

A Hickey

INSPECTOR