



Costs Decision

Site visit made on 5 March 2024

by David Cliff BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2024

**A: Costs application in relation to Appeal Ref: APP/U1430/W/23/3323968
Brays Hill Farmhouse, Brays Hill, Ashburnham, East Sussex, TN33 9NZ**

- 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 Mrs Fay Merrick for a full award of costs against Rother District Council.
 - The appeal was against a refusal of planning permission for rear extension incorporating internal alterations to a previously approved and extant permission and the provision of new staircase to attic, access to existing roof void to form tank room and insertion of en-suite bathroom to attic bedroom.
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**B: Costs application in relation to Appeal Ref: APP/U1430/Y/23/3323976
Brays Hill Farmhouse, Brays Hill, Ashburnham, East Sussex, TN33 9NZ**

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Fay Merrick for a full award of costs against Rother District Council.
 - The appeal was against the refusal of listed building consent for rear extension incorporating internal alterations to a previously approved and extant permission and the provision of new staircase to attic, access to existing roof void to form tank room and insertion of en-suite bathroom to attic bedroom.
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Decisions

1. The application for an award of costs, relating to both Appeals A and B, is refused.

Reasons

2. Planning Practice Guidance (PPG) states that irrespective of the outcome of an appeal, costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unreasonable expense in the appeal process.
3. The reasons for the appellant's costs application are centred on the way in which the Council carried out its consideration and determination of the planning and listed building consent applications, with particular regard to the advice provided by the Council's conservation officer and the change in case officer that occurred during the determination period.
4. Even though the conservation officer finally offered support for the proposals, there had been some concerns expressed regarding 'the archaeological

evidence in terms of height and length of the range is limited and therefore the form has a degree of conjecture'. Whilst further information was subsequently provided by the appellant seeking to address this, it indicates that the merits of the proposals were not so clear cut that it would be unreasonable for there to be any subsequent doubt on whether consent/permission should be granted. I also note that the appellant went on to provide further evidence in support of its appeal, which was not previously supplied with the planning application, regarding the form of the extension.

5. It is my understanding that a conservation officer's role is to provide internal advice on relevant heritage matters for the case officer to consider in his/her recommendation report on the application. It is possible that there may be certain situations where a case officer chooses not to follow the advice. Furthermore, whilst there are no emails available to shed further light on any liaison between the new case officer and the conservation officer, it is not known whether any internal discussion took place.
6. I am also conscious that it is not the case officer who typically makes the final determination of an application. In this case, according to the decision notices, both applications were signed and therefore presumably determined by the Council's Director of Place and Climate Change. It is also evident from the emails provided that the Case Officer discussed both applications with his manager before making the recommendations.
7. My appeal decisions set out the harm that I consider would arise from the proposals, including with regards to the special interest of the listed building. In view of my decisions and taking account of the above, whilst acknowledging the frustrations expressed by the appellant, I do not consider that the Council has been unreasonable in its final decisions to refuse the applications which led to the appeal.

Conclusion

8. I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. An award of costs is therefore not justified.

David Cliff

INSPECTOR