



Costs Decision

Site visit made on 10 July 2024

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 September 2024

Costs application in relation to Appeal Ref: APP/A1910/W/23/3327060 Frithsden Vineyard, Frithsden Lane, Frithsden, Hertfordshire, HP1 3DD

- 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 Duncan Thomson for a full award of costs against Dacorum Borough Council.
 - The appeal was against the refusal of planning permission for 'Replacement Dwelling'.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant's claim is based on substantive grounds; that the Council's planning committee made vague, generalised or inaccurate assertions about a proposal's impact, which were unsupported by any objective analysis including substantive reasons for refusing the application.
4. The planning application was referred to the Council's planning committee for determination with a recommendation to approve, subject to conditions. As such, the officer's report is supportive of the scheme. The application was subsequently refused by the committee, with the reasons for refusal given in the decision notice.
5. The refusal reasons in the decision notice were mostly clear and concise, citing the 'bulk, scale and height of the proposed dwelling' as the main causes of harm to the local area and the setting of the Frithsden Conservation Area. The relevant policies of the development plan are also given. The reasoning goes on to explain how this harm would be exacerbated in winter months 'or in the event of the loss of trees'.
6. As the planning officer's report recommended approval, I would not expect reasoning for refusal here, but the committee meeting minutes are frustratingly vague and offer nothing substantive as to the discussions of the committee members at the meeting. While I would not expect a detailed transcript of every word, the text only cites the same reason for refusal and as the appellant points out, there are no trees proposed to be felled.
7. I am informed that the committee misidentified dormers in the design, which the Council's costs application response confirms, and that the property is

subject to an agricultural tie with the land. Evidently, this tie was removed a long time ago while the design clearly shows no dormers. This is concerning that a standard design feature could be misunderstood by decision makers in this manner. In this regard, I agree that the planning committee did make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis at application stage.

8. However, the refusal reasons are supported by a more substantive analysis by the planning officer in the Council's appeal statement of case. As such, at appeal stage there is no failure to produce evidence to substantiate each reason for refusal on appeal. Moreover, while there was no objection from the Council's Design and Conservation Officer or Historic England to the scheme, the committee is still entitled to refuse the application as long as these reasons are substantiated. At appeal stage, this has occurred.
9. I have disagreed with the decision of the planning committee and have allowed the appeal, granting planning permission in the process. However, this refusal of planning permission was ultimately the result of a fundamental disagreement between the parties which could have only been resolved by way of an appeal.
10. Although I have had regard to the list of work undertaken and commissioned by the appellant at application stage, including by a planning consultancy, Historic Environment specialist, Landscape Visual Assessment specialist and a Visually Verified Media specialist, the dates of the reports indicate these were all drawn up prior to the application being determined. The PPG is clear that costs cannot be claimed for the period during the determination of the planning application¹, although all parties are expected to behave reasonably throughout the planning process. As such, although I agree with some of the arguments made by the appellant and understand their frustrations, unnecessary or wasted expense, as described in the PPG, has not been sufficiently demonstrated. Therefore, an award of costs is not justified.

Conclusion

11. Bringing things together, I agree that the Council has seemingly made vague, generalised assertions which were not substantiated at application stage. However, this has not necessitated additional unnecessary expense for the applicant at appeal stage. Therefore, the Council did not act in an unreasonable manner in the appeal process to a sufficient degree that would be given any significant weight in determining this costs decision. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been sufficiently demonstrated. Accordingly, I determine that the costs application should fail, and no award is made.

C McDonagh

INSPECTOR

¹ Paragraph: 033 Reference ID: 16-033-20140306