
Costs Decision

Site visit made on 17 January 2017

by **J J Evans BA Hons MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 February 2017

Costs application in relation to Appeal Ref: APP/R3325/W/16/3159154 Alehouse Lodge, Ilchester Road, Charlton Mackrell, Somerton, TA11 6AB

- 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 & Mrs Bugg for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of the Council to grant planning permission for the conversion of existing building into 2 no dwellings and erection of detached dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for the costs to incur unnecessary or wasted expense in the appeal process.
 3. The Guidance advises that awards may be procedural relating to the appeal process, or substantive relating to the planning merits of the appeal. All parties are expected to behave reasonably throughout the planning process, and costs can only be awarded in relation to unnecessary or wasted expense at the appeal. The Guidance makes it clear that costs cannot be claimed for the period during the determination of the planning application, although behaviour of the parties at this time can be taken into account.
 4. The application for a full award of costs has been made in writing and will not be repeated here in any detail. The appellants consider the Council behaved unreasonably in the processes followed to determine the application. Limited and conflicting advice was given to the appellants and the Council were unwilling to discuss and resolve outstanding issues. Expert advice was inconsistent, and the decision was issued suddenly and without informing the appellants. The refusal of the proposal was inconsistent with other decisions taken by the Council. Unnecessary and wasted expense has occurred in preparing and submitting both the application and the appeal.
 5. For the reasons given in my decision I have found substantive reasons for dismissing the appeal. The Council substantiated the decision at both the application and appeal stages. An explanation has been provided as to the planning history of the site and the bearing it had on the decision. Matters of planning policy have been considered and their relevance to the decision. The location of the appeal property in a conservation area is a matter that the
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Council have a statutory requirement to consider, as is the impact of the proposal on the setting of a listed building.

6. The Council provided advice during the application, including meeting with the appellants. Negotiation was occurring with the County Highways Authority and the appellants were aware of the requirement for further information with regard to highway matters. Although a report was commissioned by the appellants it was not finalised nor was it submitted to the Council at the application stage.
7. It does not follow that other cases set a precedent as each proposal has to be treated on its individual merits in accordance with the current development plan and all other material considerations. In this instance the Council took a different view with regard to the level of harm resulting from the proposal than the appellants. The Council have not behaved unreasonably, but have given a different weight to the issues.
8. The circumstances of how the Council issued the decision would have been frustrating for the appellants. However, it was not unreasonable of the Council to determine the application on the basis of the information before it, having regard to the current development plan and the statutory duties upon it. The decision to proceed with an appeal would have been one for the appellants to make.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Guidance has not been demonstrated, and a full award of costs is not justified in this instance.

J J Evans

INSPECTOR