



Costs Decision

Site visit made on 27 July 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 07 September 2021

Costs application in relation to Appeal Ref: APP/C1570/W/21/3268299 Elm Cottage, Further Ford End, Clavering, Saffron Walden CB11 4SG

- 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 and Mrs Rod and Lucy Smith for a full award of costs against Uttlesford District Council.
 - The appeal was against the refusal of planning permission for the proposed replacement dwelling with associated operational works including landscaping and refurbishment of the exterior of Elm Cottage including replacement joinery, surface materials and demolition of later conservatory. Erection of garaging and associated operational development and landscaping. Proposed works to Elm Cottage, that now enjoys residential status, in its own right, and was an historic piggery associated with the agricultural farmstead, includes the removal of a modern conservatory and replacement joinery within the retained structural openings and the application of a painted weatherboard finish to replace the existing hard cementitious based plaster. Creation of an opening within modern studwork to provide access to the private courtyard of Further Ford End House
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Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (the 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. Local Planning Authorities are encouraged, through the PPG, to exercise their development management responsibilities by relying only on reasons which stand up to scrutiny on the planning merits of the case.
3. From the evidence before me, I have identified three main issues. In respect of these, the Council adequately explained their rationale for considering that the proposed development would have an adverse effect upon the setting of the Listed Building and curtilage listed buildings. In addition, the Council's concerns regarding the suitability of the site as a location for a residential development were adequately reasoned.
4. However, the Council have described the precise siting of the proposed dwelling as being agricultural land. In contrast, the appellant has described it as being garden land. In addition, on my site visit I noted the carrying out of several activities associated within the operation of a domestic garden. Therefore, within my appeal decision, I have described the current use of the appeal site as a domestic garden.

5. However, irrespective of the precise current use of the appeal site, the Council identified that it contributed to the setting and general rural character of the appeal site. In addition, the Council identified specific elements of the proposed dwelling's design, which they considered would be injurious to the character of the surrounding area.
6. Therefore, the Council has explained the reasons why they considered that the proposed development would have an adverse effect upon the character and appearance of the surrounding area. Whilst I recognise that the appellant disagrees with this assessment, a judgement needs to be made based upon the individual circumstances of a proposal.
7. Therefore, although I have disagreed with the Council regarding the existing use of the site that would contain the proposed dwelling, the existing use considered by the Council did not result in the refusal of a scheme that should clearly have been approved or an erroneous reason for refusal that the appellant has had to address.
8. In consequence, there is no evidence that is indicative of the appellant being subjected to unreasonable or unnecessary costs in submitting the appeal against the refusal of planning permission.
9. In result, I cannot agree that the Council has acted unreasonably in this case. As such, I do not believe that the appellant was put to unnecessary or wasted expense. Therefore, an award of costs is not justified.

Conclusion

10. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Benjamin Clarke

INSPECTOR