
Costs Decision

Site visit made on 4 August 2016

by R J Marshall LLB DipTP MRTPI

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

Decision date: 24 August 2016

Costs application in relation to Appeal Ref: APP/D0840/W/16/3145754 Monterey, Madron, Cornwall, TR20 8SS

- 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 Beckerleg for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for erection of annex.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, costs may only 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 appellants submitted a costs claim in writing and the Council responded in writing.
4. The essence of the appellants' case is that on the 3 issues identified in my decision, whether the proposal is ancillary accommodation, its effect on character and appearance and living conditions, the Council has made an inadequate case in light of the appellants' evidence and provided only vague and generalised assertions in support of its case. It is also alleged that it failed to have regard to whether its concern on the first issue could be overcome by condition.
5. On the first issue I found for the appellant that the proposed annexe could justifiably be regarded as ancillary accommodation. However, the Council provided reasonably substantial evidence for its case based on the facilities provided in the annex and the degree of separation from the main house. That I reached a different conclusion on the evidence provided and what I saw does not make the Council's stance unreasonable. Evidence has been provided that the Council has permitted detached annexes as ancillary accommodation. However, applications stand to be considered on their own merits and in most cases there is insufficient evidence to make strong comparisons between these developments and the case before me. And in the one case where more evidence has been provided the particular circumstances of the proposed occupant differ from the case before me. As for the appeal decisions referred to they differ from the proposal before me with regard to matters such as the

physical connection between the 2 properties, the sharing of facilities and the Policy regime in place. Thus these decisions are not indicative of the Council acting unreasonably.

6. I found, contrary to the appellants' stance, that a condition could be imposed to ensure that the annexe remained ancillary accommodation to the main house. However, the ability to impose the condition is dependant in no small part to the extent to which the annexe may be regarded as ancillary accommodation. As the Council did not act unreasonably in its approach on this neither did it therefore act unreasonably in determining that a condition would not be applicable.
7. On the issue of the effect of the proposed development on the character and appearance of the area the appellants' evidence was more comprehensive and persuasive. However, the Council provided evidence on the character of the area and the scale of the proposed development which went beyond just vague assertion. On the effect on living conditions the Council provided objective and reasoned evidence on overshadowing and effect on privacy. That they gave this greater weight than I did may well be due to the concern that the proposal was not truly ancillary accommodation and could not be considered as such which, although not my view, was not an unreasonable stance to take.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that an award of costs is not justified.

R J Marshall

INSPECTOR