

Costs Decision

Site visit made on 12 December 2016

by Rachel Walmsley BSc MSc MRTPI

Decision date: 24 January 2017

Costs application in relation to Appeal Ref: APP/W0340/W/16/3158537 East Thurle, Rectory Road, Streatley, Reading RG8 9QH

- 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 Wendy Grogan for a partial award of costs against West Berkshire Council.
 - The appeal was against the refusal of planning permission for the development of land without complying with a condition subject to which a previous planning permission was granted.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. I have considered this application for costs in light of the Planning Practice Guidance (PPG). 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 application for costs relates to two of the three reasons for refusal given by the Council. The first of these concerns the use of the accommodation; the second relates to the effect of the proposal on the Area of Outstanding Natural Beauty (AONB).
 4. I appreciate that the appellant may not have intended for the Council to consider the proposal as anything but ancillary accommodation. However, it is clear to me that the Council considered the information presented and in doing so concluded that because of the layout of the accommodation and the way that it would function, it could be used as a self-contained dwelling. The Council considered the proposal against the relevant sections of the National Planning Policy Framework (the Framework) and the policies within the Local Plan and in its appeal statement referenced case law to support its conclusions. I find no basis, therefore, to consider that the Council speculated on the potential use of the building.
 5. The Framework encourages local planning authorities to *look for solutions* and *consider whether otherwise unacceptable development could be made acceptable through the use of conditions*. The Council explained within its appeal statement that conditions can be considered provided they do not
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materially alter the development that was subject to the original permission. The Council formed the view that as living accommodation was not part of the original permission, it would not be reasonable to attach a condition to any planning permission to restrict the use of the proposal. I am satisfied on this basis that the Council explored the use of conditions and reached a reasonable conclusion accordingly.

6. With regards to the effect of the proposal on the Area of Outstanding Natural Beauty (AONB), the Council considered that *the resultant changes to design, size, bulk, fenestration and scale would make the building significantly more prominent* and as a result would be harmful to the AONB and contrary to the development plan. The justification within the decision notice to support this reason for refusal lacked detail, however, the Council's appeal statement made it clear that because of the increased height of the building, the proposal would impact on the landscape protection of the countryside and the AONB, the character of which has been referred to with references to the North Wessex Downs AONB Management Plan (2014-2019). I agree with the appellant that the link between the increase in height of the proposal and its impact on landscape character and the AONB was weak and lacked detail. However, the Council's reasoning was not unduly vague or inaccurate for the link to be unsubstantiated and for me to consider that the Council behaved unreasonably in this regard.
7. The Council made no reference to, and draws no comparison with, the outbuilding approved to the west of Thurle Grange¹. However I find no substantive reason why a discussion of this planning application would have materially altered the Council's decision on the development proposed. Furthermore, each case must be decided on its own merits and in this case, the Council found that development proposed would be harmful.

Conclusion

8. I have found that the Council did not behave unreasonably in considering the application as it did or in refusing the proposal for the reasons given. The Council did not, therefore, cause the applicant to incur unnecessary or wasted expense in the appeal process. As a result I conclude that a partial award of costs, towards the expense of the appeal, is not justified.

R Walmsley

Inspector

¹ Planning application reference 15/01821/FUL