
Costs Decision

Site visit made on 28 March 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 06 April 2017

Costs application in relation to Appeal Ref: APP/E3525/W/16/3164718 6 Fen Road, Grimstone End, Pakenham, Suffolk IP31 2LZ

- 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 Ms Yasmin Hempstead for a full award of costs against St Edmundsbury Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for erection of a two-bedroom annexe.
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Decision

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

Reasons

2. The national Planning Practice Guidance (PPG) advises that 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 appellant applied for a development described on the application form as a self-contained annexe. The Council considered that the development should be described as a dwelling and that the description on the application form should be changed.
4. Planning Practice Guidance¹ states that before publicising and consulting on an application the local planning authority should be satisfied that the description of development provided by the applicant is accurate. It also goes on to state that the local planning authority should not amend the description of development without first discussing any revised working with the applicant or their agent.
5. The evidence before me indicates that a letter was sent to the appellant's agent with notification that the description would be changed from annexe to dwelling unless a response to the contrary was given within 5 days². An increased fee was also requested as a consequence of the change in description, and the fee was paid.
6. As the fee was paid I consider it entirely reasonable for the Council to presume that the changed description was acceptable to the appellant and to proceed

¹ 046 Reference ID: 14-046-20140306

² Acknowledgement of application, 17 August 2016

with validation of the application. Although the appellant argues that the agent did not understand the planning process or the implications of the Council's correspondence, this does not invalidate the Council's actions. It is not unreasonable for the Council to presume that an agent acting for an applicant is familiar with the process and is acting on the applicant's behalf.

7. Furthermore, having reviewed the drawings and as reasoned in my Decision, I have concluded that the description 'annexe' would be inappropriate for the proposed development. I also conclude that it was not unreasonable for the Council to wish to alter the description rather than requesting a new submission, as altering the description in this way avoids the need for a new application if the drawings and supporting information are unchanged. Although I appreciate that the appellant considers she did not agree to the change, in this instance this does not amount to unreasonable behaviour on the Council's part.
8. The appellant has raised a concern that the Council was unhelpful when the issue of the amended description was raised by the agent. I can appreciate that a fuller explanation of the reasoning behind the Council's stance in seeking to change the description might have avoided the expense of the appeal. Nonetheless, there is nothing in the evidence before me to indicate that the Council did not provide a fuller explanation or, as noted above, that leads me to conclude that the Council acted unreasonably.
9. Consequently, I do not find that the Council has acted unreasonably, and nor do I consider there has been wasted expense. I therefore find that unreasonable behaviour resulting in wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not justified.

Amanda Blicq

INSPECTOR