



Costs Decision

Site visit made on 24 July 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 10th August 2017

Costs application in relation to Appeal Ref: APP/J2210/W/17/3174303 19 High Street, Herne Bay CT6 5LJ

- 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 M Ahad for a full award of costs against Canterbury City Council.
 - The appeal was against the refusal of planning permission for conversion of lower ground floor floorspace to form a one-bedroomed flat; extension of residential floorspace at upper ground floor (first floor) level to form a one-bedroomed flat; extension of upper ground floor (first floor) by raising of roof height.
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Decision

1. The application for costs is refused.

Reasons

2. The 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 expense in the appeal process.
3. The appellant understood that the primary reasons for the Council's refusal of the previous scheme, Ref: CA/16/00542, related to one of the flats having insufficient floor space and the second having poor outlook within the living area. The appeal proposal sought to address both these concerns. He was therefore disappointed to find the scheme was rejected due to the lack of windows in the bedrooms of both flats and the absence of a hallway in the upper flat.
4. At the time of the decision the Council relied on saved Policy BE1 of the Canterbury District Local Plan 2006 to support this reason for refusal, although reference was also made to emerging Policy DBE3 of the Canterbury District Local Plan Publication Draft 2014. Policy BE1 sought to promote high quality design, but did not make specific reference to the living conditions of future occupants. Policy DBE3, which also deals with the principles of good design, does make specific reference to the amenity of future occupiers. Although this policy was not adopted at the time of the decision, it had been through examination and therefore was a matter of significant weight. In any event, one of the core principles of the National Planning Policy Framework (the Framework) is to ensure that developments always provide a good standard of amenity for all existing and future occupants of land and buildings.

5. Neither Policy DBE3 nor the Framework makes specific reference to how the living conditions of future occupants should be assessed. However, it is widely accepted that bedrooms are habitable rooms, whereas bathrooms are not. Outlook from bedrooms can therefore be a determining factor in assessing the acceptability of a residential scheme such as this one. The revised scheme overcame the Council's concern about floorspace, but did not fully address its concerns about the lack of outlook from the bedrooms. I have considered the proposal afresh and found the scheme unacceptable for the same reason.
6. I am therefore satisfied that the Council did not act unreasonably in refusing the application. During the appeal it provided a statement expanding its reasons for refusal and maintaining its stance that the proposal would be contrary to the development plan and the Framework. It has also updated the situation regarding the recent adoption of its new Local Plan following receipt of the Inspector's report and further modifications.
7. Following refusal of the revised scheme the appellant had a choice. He could either consider making further amendments to address the Council's concerns and submit a revised proposal or pursue the appeal. In choosing to pursue the appeal he did not incur unnecessary expense in presenting his case.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Sheila Holden

INSPECTOR