
Costs Decision

Site visit made on 13 February 2018

by David Richards BSocSci DipTP MRTPI

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

Decision date: 05 March 2018

**Costs application in relation to Appeal Ref: APP/R0660/X/17/3180510
Hawthorne House, Free Green Lane, Over Peover, Knutsford, Cheshire,
WA16 9QY**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Steven Watmore for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of a certificate of lawful use or development for proposed home office, entertainment and fitness suite annexe at Hawthorne House.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. The application for costs and response by the Council were made in writing, and there is no need for me to repeat them in full.
4. The Appellants refer to delay in determining another application Ref. 17/2900M. However, this claim is concerned with application Ref. 17/0555M and the related appeal. Any suggested delay in determining a different application is not relevant to consideration of whether a costs award is merited in this case.
5. Following receipt of the recent Appeal Decisions by Inspector Brier dated 1 December 2017, the Council accepted the curtilage point and withdrew this reason for refusal. To my mind, the Council responded appropriately to the new information at the earliest opportunity, and the Appellants were not put to unnecessary expense in responding on this ground.
6. The Appellant alleges that had no substantive grounds for refusing to issue a certificate of lawful use or development (LCD).
7. It can be seen from the Appeal Decision to which this costs application relates that I have found the Council's refusal to issue an LCD was well founded, for the reasons set out therein. The Appellant suggests that the Council introduced new refusal reasons after it became clear that the curtilage issue was resolved. However, it appears to me that the case argued by the Council stems directly

from the second refusal reason, and was canvassed in the Committee Report. In my judgment, these are not 'new reasons' and the Council has presented satisfactory evidence to substantiate its case. The Appellants have had the opportunity to respond, and I do not consider that the Appellants have been prejudiced in this respect.

8. In their final comments and costs claim, the Appellants state that 'the appeal site is the dwelling house to a well-established business operation covering over 100 acres with a business turnover of millions of pounds each year with a nursery business requiring 24 hour site supervision. Whilst the annexe is for 'personal use', the Appellants' overall site holding should be considered. In other words the Appellants' site is 'significantly larger than most'.'
9. The Appellants case is clearly based on the argument that the annexe is for personal use incidental to the enjoyment of the dwellinghouse, and not for business use, so the extent of the nursery business and requirement for site supervision are not relevant considerations.
10. Accordingly, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated, and the application for an award of costs fails.

David Richards

INSPECTOR