



Costs Decision

Site visit made on 16 July 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Costs application in relation to Appeal Ref: APP/E0345/W/19/3222030 Wantage Road Post Office, 180 Wantage Road, Reading RG30 2SJ

- 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 Jay Chauhan for a full award of costs against Reading Borough Council.
 - The appeal was against the refusal of planning permission for external alterations to an existing outbuilding.
-

Decision

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

Reasons

2. Planning Practice Guidance 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 applicant asserts that the Council acted unreasonably in that they considered the principle of a new dwelling, when the application sought alterations necessary to facilitate the conversion of the building into a dwelling that had already been established. As such, they failed to pay due regard to a material consideration, namely the fallback position of the dwelling permitted¹ under Class M, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development (England))(as amended) Order 2015.
4. The Council raised their concerns regarding the description of the development with the applicant, and clearly set out in the delegated report on what basis they intended to approach the application. As will be seen from my decision, I also considered that due to the degree of demolition and construction it was appropriate to assess the appeal proposal as a new dwelling. Therefore, in this regard the Council did not act unreasonably.
5. The reasons for the refusal set out in the decision notice are reasonably specific and relevant to the application and each one identifies which policies in the development plan the Council considered to be most relevant. These reasons were adequately substantiated by the Council in its delegated officer report, that outlined the nature of the harm resulting from the proposal using the evidence submitted by the applicant, the Council's observations and referred to

¹ Reference 180981 dated 31 July 2018

relevant local and national policies. On this basis, the evidence does not show that the Council failed to properly evaluate the proposal or assess the application in a manner consistent with planning law, practice and the advice with the Development Plan and National Planning Policy Framework as the applicant asserts.

6. The officer delegated report refers several times to the prior approval reference 180981 that establishes a dwelling under permitted development rights. It is also listed in the relevant planning history and therefore, the Council were aware of its existence as a relevant consideration. Nevertheless, the delegated report does not expressly make a comparison of the impacts arising from the appeal proposal relative to the permitted development dwelling, and as such it is not particularly clear from this whether the Council acknowledged a realistic fallback position and, if so, what weight was given to it.
7. Whilst criticism might be levelled at the Council for this ambiguity, the apportionment of weight to respective material considerations is a matter for the decision maker, and the limited express reference to the consented dwelling implies the Council did not give it considerable weight.
8. I appreciate that the applicants disagree with the planning judgement exercised by the Council. However, this does not necessarily point to unreasonable behaviour but rather indicates a difference of opinion as to the likely impact and acceptability of the proposal. As will be seen from my decision, based on its merits, I have found that the Council had some reasonable concerns about the impact of the proposed development which justified its decision.
9. The appeal provided an opportunity to test the planning judgement made by the Council and the appellant has not been put to unnecessary or wasted expense in doing so.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Helen O'Connor

Inspector