



Costs Decision

Site visit made on 10 December 2020

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 12th February 2020

Costs application in relation to Appeal Ref: APP/P0240/X/19/3226041 Well Cottage, Featherbed Lane, Chalgrave, Dunstable LU5 6JL

- 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 David Westcott for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of a certificate of lawful use or development (LDC) for the erection of an outbuilding.
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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. With respect to the Council's consideration of the application plans, it appears to me that they fairly assessed the dimensions of the proposed building against the height dimension restrictions set out in paragraph E.1 of Class E of Part 1 to Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Furthermore, the Council found that the proposal would comply with the other limitations and conditions set out in Class E. They were also clearly aware of the sizes of the various spaces in terms of floor area – a matter on which they have not been challenged.
4. I find virtually no evidence that the Council misread the application drawings, or that this led to any misstatement of fact. I do not consider there was any unreasonable behaviour in that regard.
5. The Council made reference to a number of previous appeal decisions – including quoted paragraphs – both in their Officer's delegated report and in their appeal statement. They refer to the High Court case of *Emin*¹ – also referenced by the appellant. The Council take into account the various uses proposed and evaluate each one. They come to the conclusion that the proposed activities go far beyond domestic activities and liken the building to a community entertainment centre. They also question the degree to which the existing house already accommodates these activities.

¹ *John Emin v the Secretary of State for the Environment and Mid-Sussex District Council* [1989] JPL 909.

6. It appears to me that such judgments are germane to consideration of the test put forward in *Emin* of whether the proposed building is genuinely and reasonably required or necessary in order to accommodate the proposed use and achieve the purpose and incidental quality in relation to enjoyment of the dwelling. I do not consider the Council made their assessment solely on the basis of the comparative sizes of the proposed building and the house as the appellant suggests. While a consideration of size has been made, this is not necessarily irrelevant.
7. Overall, I do not find that the Council misread the application drawings or made incorrect inferences from them. Nor do I consider they failed to arrive at a coherent and defensible position in their judgement of the case before them.

Conclusions

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

Stephen Brown

INSPECTOR