
Costs Decision

Site visit made on 26 February 2020

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2020

Costs application in relation to Appeal Ref: APP/T0355/X/19/3237532 Bridge Cottage, Bisham Road, Bisham, Maidenhead SL7 1RP

- 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 Wheeler and Mr Palmer for a full award of costs against Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of the Council to issue a certificate of lawful use or development for the permanent stationing of a mobile log home for use as a residential annexe.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. Paragraph 49¹ of the PPG gives examples of the type of behaviour that may give rise to a substantive award against a local planning authority. This includes failure to produce evidence to substantiate each reason for refusal on appeal, acting contrary to or not following well-established case law, refusing to enter into pre-application discussions or to provide reasonably requested information. Paragraph 50² advises how that where local planning authorities have exercised their duty to determine applications in a reasonable manner, they should not be liable for an award of costs.
4. The applicant claims that the Council failed to substantiate their reason for refusal and did not follow well-established case law, but instead made inaccurate and incorrect assertions about the proposed caravan and failed to have regard to legislation and case law, although the information provided to them was clear and unambiguous. In particular, erroneous statements were made in the delegated report, with regard to whether the caravan would be a single or twin-unit, details of plinth and foundations, and whether it would be fixed to the ground. The applicant also claims that the Council did not enter into discussions to set out why, on the basis of the evidence before them, they came to different conclusions. The applicant sent numerous emails to the planning officer during the consideration of the application, offering to discuss

¹ Paragraph: 049 Reference ID: 16-049-20140306 Revision date: 06 03 2014

² Paragraph: 050 Reference ID: 16-050-20140306 Revision date: 06 03 2014

the proposal, and additional information was also provided. If the Council had entered into discussions the appeal could have been avoided.

5. However, it is clear from the correspondence provided that the Council requested additional technical information, due to its concerns about the clarity of the information provided. While the officer did not subsequently take the opportunity to discuss the case, there is no obligation to do so, and such discussions should normally take place at the pre-application stage.
6. Although I have found in favour of the appellant with regard to the certificate of lawfulness, I do not find that the Council has behaved unreasonably. It was entitled to conclude that the information was inconsistent, bearing in mind that the burden of proof lies with the appellant in an application for a certificate of lawfulness. There is evidence that the planning officer sought clarification and additional information from the appellant. The Council has substantiated its reason for refusing the application, with reference to the inadequate information provided with the application.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

N Thomas

INSPECTOR