



Costs Decision

Site visit made on 13 July 2020

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2020

Costs application in relation to Appeal Ref: APP/V0510/W/20/3246815 The Annexe, 3 Hall Lane, Burwell CB25 0HE

- 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 Colin Barnes for a full award of costs against East Cambridgeshire District Council.
 - The appeal was against the refusal of planning permission for change of use of annexe to residential dwelling including revision to garden and parking arrangements.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (the PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities include unreasonably refusing or failing to determine planning applications, resulting in the preventing or delaying of development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant contends that the Council has failed to clearly and reasonably justify its refusal of permission for the development proposed. The development is not contrary to Policies ENV1 and ENV2 of the East Cambridgeshire Local Plan April 2015 (the LP) as the annexe already exists and no changes are proposed to the building. References to the building being at odds with the character of the area established by other outbuildings are contradictory. The reference to precedent is not evidenced and there are no similar annexes that could readily be changed. The development proposed would provide outdoor amenity space at a level required in the Design Guide and car parking spaces required by policy. The outlook from the first floor bedroom was considered acceptable when permission was granted for the first floor of the building.
5. The Council responds that the building was given permission as an annexe, and its character is that of an outbuilding rather than being of a form in keeping with any adjacent dwelling. The change to an independent dwelling would not be in keeping with the overriding character of the area. Concern over setting a

precedent was raised by the members of the Planning Committee and included within one of the Council's reasons for refusal but was not the basis for refusing permission. The outdoor amenity space would not be of a usable or functional layout, but that the provision of car parking spaces met the policy requirement and was not contested. The occupants of the proposed dwelling would not have access to the garden space to No 3 Hall Lane, which the occupants of the approved annexe would do. The application was determined by the members of the Planning Committee, and the applicant had previously been advised that the Council would be likely to refuse permission for the appeal proposal following an earlier application. The applicant has not incurred unusual costs in making the appeal.

6. With regard to the matter of the character and appearance of the annexe building, the building clearly differs from the more typical forms of dwellinghouses seen in the vicinity of the appeal site, notwithstanding the variety in the appearance of neighbouring dwellings I saw during my visit. There is another outbuilding of similar size at the end of a nearby garden, and the cumulative effect of multiple outbuilding conversions may be harmful to the character and appearance of the area. However, I can only determine the appeal based on the evidence before me at the time of my decision. While I reached a different conclusion to the Council, this was a matter of planning judgment. I do not therefore consider that the Council acted unreasonably in refusing planning permission on this issue.
7. With regard to the matter of the rooflight to the bedroom, I did not find that, on balance, the Council was justified in refusing planning permission on this point. However, I consider that in reaching this conclusion I have given greater weight than the Council to the annexe building being an existing structure. This was a matter of planning judgment, and I do not consider that the Council in refusing planning permission on this point acted unreasonably so that an award of costs would be justified.
8. As set out in my appeal decision, I agree with the Council that the appeal proposal would fail to make sufficient provision for outdoor amenity space, and therefore would be harmful to the living conditions of future occupiers. As a result, the Council did not behave unreasonably in refusing planning permission on this issue.

Conclusion

9. I have carefully considered the points raised by both parties and the evidence before me. Having done so, I do not find that there was unreasonable behaviour on the part of the Council that has directly resulted in unnecessary or wasted expense on the part of the applicant, as described in the PPG. The requirements for awarding costs have not been demonstrated. Accordingly the costs application fails and no award is made.

M Chalk

INSPECTOR