



Costs Decision

Site visit made on 7 September 2020 by Mariam Noorgat BSc (Hons)

Decision by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2020

Costs application in relation to Appeal Ref: APP/A2280/D/19/3242314 25 St Johns Road, Gillingham, Kent ME7 5QE

- 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 Birkby for a full award of costs against Medway Council.
 - The appeal was against the refusal of planning permission for the construction of a single storey extension to rear – demolition of existing single storey extension to rear without complying with a condition attached to planning permission Ref MC/19/1501.
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Decision

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

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the costs application.

Reasons for the Recommendation

3. 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. It adds that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by preventing or delaying development that should clearly be permitted having regard to the development plan and national policy; by failing to provide evidence to substantiate the reason for refusal; or by making vague, generalised or inaccurate assertions about the proposal's impact.
4. As set out in the appeal decision, I have found that the condition, which removed permitted development for a change of use from Class C3 (dwellinghouse) to Class C4 (HMO), was unreasonable and unnecessary. Consequently, it was therefore unreasonable for the Council to impose the condition. However, I have no evidence that the use of the property as an HMO was the applicant's intention. Their original supporting planning statement suggests the kitchen extension was simply to improve the ground floor layout with no changes planned to the rest of the property, and no intention to increase the number of bedrooms or people living at the site. As such the condition's existence was of little consequence.
5. As such, I do not consider that it has been demonstrated that the Council's behaviour has resulted in unnecessary or wasted expense on behalf of the

applicant. For this reason, and having regard to all matters raised, I recommend that an award for costs is not justified.

Mariam Noorgat

APPEAL PLANNING OFFICER

Inspector's Decision

6. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the application for an award of costs should be refused.

Andrew Owen

INSPECTOR