



Costs Decision

Hearing held on 20 October 2020

Unaccompanied site visit made on 28 June 2020

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th October 2020

Costs application in relation to Appeal Ref: APP/C1950/X/19/3227923 112 Hollybush Lane, Welwyn Garden City, Herts AL7 4JW

- 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 Marc Tims for a full award of costs against Welwyn Hatfield Borough Council.
 - The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a certificate of lawful use or development for a development described as: Loft conversion completed June 2013
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Decision

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

The submissions for Mr Marc Tims

2. The costs application was submitted in writing. Additional points were made orally which are summarised in the Annex at the end of this decision.

The response by Welwyn Hatfield Borough Council

3. The response was made in writing.

Reasons

4. The Planning Practice Guidance (PPG)¹ 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.

¹ Appeals, Paragraph: 030 Reference ID: 16-030-20140306

5. The Council accepts that it was wrong to decline to determine the applications. The appellant considers the Council should have corrected this by issuing lawful development certificates (LDCs). But it was not unreasonable for the Council not to grant the applications as neither of the developments are lawful. For the same reason, the Council has not been responsible for avoidable delay, as alleged by the appellant.
6. The appellant considers the Council has provided information it knows to be manifestly inaccurate or untrue and/or has deliberately concealed relevant information. But this allegation has not been substantiated for the purposes of this costs claim and there is no evidence of such behaviour in relation to the appeals which are before me, notwithstanding that the Council should not have declined to determine the LDCs.
7. The appellant has suggested that better communication and a more helpful approach on the part of the Council would have enabled the appeals to be avoided. But this is not the case as neither development is lawful. So better communication or discussion would not have changed the outcome of the appeals. In any event, the PPG² is clear that the applicant (or the appellant as is the case here) is responsible for providing sufficient information to support an LDC application.
8. The appellant has drawn my attention to the Council's enforcement investigation and its decision to issue an enforcement notice. But the appellant took the opportunity to appeal that notice, the notice was upheld, and that decision has not been challenged through the courts. So these are not matters I can consider in these appeals, despite the fact the enforcement notice is a reason why neither development is lawful.
9. The appellant states that LDCs have been granted for similar dormer and extension schemes elsewhere. But the outcome of LDC applications depends entirely on the facts in each case so the outcome of one LDC application does not necessarily dictate what the outcome should be of another.

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.

L Perkins

INSPECTOR

² Lawful development certificates, Paragraph: 006 Reference ID: 17c-006-20140306

Annex: Additional Submissions by Mr Marc Tims

1. I did not want to include the enforcement notice but I am entitled to as the Council raised it.
2. The Council had the option of a stay of proceedings and is foolish to think it can carry on with this matter.
3. In March the Council realised they should not have done what they have done.
4. We put our cost case in at the right time but the Council do what they want and have the benefit of unlimited pots of money.
5. We cannot afford to fight it.
6. We could not justify a judicial review to be told the same decision.
7. The Council could have put a stop to this in March but did nothing.