Costs Decision

Site visit made on 20 October 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2020

Costs application in relation to Appeal Ref: APP/X0360/W/20/3255942
Hutts Farm Cottage, Blagrove Lane, Wokingham RG41 4AX

- 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 B Ryan for a full award of costs against Wokingham Borough Council.
- The appeal was against the refusal of planning permission for conversion of existing annex building to an independent dwelling with associated external alterations and replacement parking for Hutts Farm Cottage.

Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. The PPG makes it clear that a Local Planning Authority (LPA) is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

4. The application for costs relates to two elements, but in effect relates to the failure of the Council to follow their professional advice in relation to highways and ecology matters.

5. In regard to highways, it is claimed by the appellants, that the Highway Authority raised no objections, following the submission of amended information, yet the LPA maintained a refusal on highway grounds, thereby failing to follow the advice offered by the Highway Authority. The LPA have clarified that the no objection element of the Highway Authority's comments related to technical highway matters, covering access and parking provision. I agree that the change in recommendation is confusing and unclear. However, as the nature of their original objection also related to the location of the site and the need to rely upon an unlit road with no pavements for access, given these elements remained unchanged, I do not find that the LPA failed to consider the Highway Authority's views. Furthermore, I note that the reasons for refusal do not cover access or parking matters.

6. Reference has been made to an appeal decision, which the Applicants consider to be comparable to the appeal proposal, in terms of accessibility to local services and facilities. They submit that, due to similarities, the LPA should have taken a similar view to the Inspector in that case. As will be seen from my decision on the appeal application, this decision was considered and found not to be comparable with the appeal proposal. In any event, the appeal application fell to be determined on its individual merits.

7. Turning to ecology matters, I note the response of the Council's ecologist on the appeal application, which identified the potential for the building to contain bats. Whilst I accept that the proposal would involve a conversion of an existing building, it would undoubtedly have resulted in an intensification of its use, thereby increasing the potential for disturbance to any bats, had they been present. Given the features identified by the ecologist, and the lack of evidence to the contrary and the protected nature of the species, it would appear entirely reasonable for the Council to adopt a precautionary approach to this issue and seek confirmation. Furthermore, I note that the consultation response from the Council's ecologist highlights a recent survey (2019) which found bats to be using the main dwelling. Therefore, the presence of bats on the site was known, and the need to provide the necessary evidence should not have come as a surprise.

8. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

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

Adrian Hunter

INSPECTOR