



Costs Decision

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2022

Costs application in relation to Appeal Ref: APP/Z5630/X/21/3273575 20 Reynolds Road, New Malden KT3 5NG

- 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 Mrs Rubina Chughtai for a full award of costs against the Council of the Royal Borough of Kingston-upon-Thames.
 - The appeal was against the refusal of a certificate of lawful use or development for hip to gable roof extensions with rear dormer to facilitate loft conversion.
-

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. Awards against a party may be either procedural or substantive.
3. The applicant states that the Council took over 3 months to determine the application and failed to return telephone calls or emails to clarify any points, which has led to an unnecessary appeal, wasting time, resources and costs. The applicant also contends that it was incumbent on the Council to raise matters concerning whether the appeal site comprises one dwelling house. The application for an award of costs is therefore made on both procedural and substantive grounds.
4. The PPG sets out that a local planning authority's handling of the application prior to the appeal might lead to an award of costs where it has failed to determine an application within the time limits. However, while the application was not determined within the statutory time period, the Council did issue a decision and did not behave unreasonably in this regard.
5. The PPG advises 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 unreasonably refusing applications. The applicant had the opportunity to address the Council's concerns regarding the use of the annexe through the appeal. However, as can be seen from my decision, the appellant did not demonstrate, on the balance of probabilities, that the appeal site comprises a single dwellinghouse.
6. Although the applicant asserts that the appeal should be allowed, I have agreed with the Council and dismissed the appeal. I am therefore unable to conclude that better communication with the applicant would have enabled the appeal to be avoided altogether.

Conclusion

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

M Savage

INSPECTOR