The Planning Inspectorate

Costs Decision

Site visit made on 13 April 2022

by Mr Kim Bennett BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2022

Costs application in relation to Appeal Ref: APP/Z2260/D/22/3293114
18 Drapers Avenue, Margate CT9 4AP

- 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 & Mrs Anthony Moyes & Victoria Greenwood for a full award of costs against Thanet District Council.
- The appeal was against the refusal of the Council to grant planning permission for the erection of a two storey side extension with Juliette balcony to rear at first floor.

Decision

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

Reasons

2. The Planning Practice Guidance 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.

3. The appellants claim for costs is based around a number of factual and dimensional inaccuracies in the officer report which were not supported by cogent or factual evidence. In effect the appellant is suggesting that the Council's decision making was therefore flawed, thus necessitating the submission of an unnecessary appeal.

4. Part of the above stems from a wrong version of the officer report which was uploaded to the Council's system at the time of the decision. The Council accept that this contained inaccuracies and has explained that it stemmed from the way in which reports are generated and then uploaded; in this instance an older report being inadvertently uploaded. Once the matter was brought to its attention during the appeal process, the correct version was uploaded.

5. The appellants have submitted a detailed technical analysis to cast doubt as to whether the corrected report was on the Council's software system at the time of the decision and indeed whether there were two reports in the first place. I do not intend to respond to that particular allegation since it would involve a forensic examination of the way in which reports are produced from various computer programs and then uploaded into software systems. In that respect there are no doubt a number of technical explanations which might explain different dates appearing on individual computer documents. I am therefore content to accept the Council's explanation at face value; that there was an honest error involved and that the updated report formed the basis of the evaluation of the proposal prior to a decision being made. Should the

appellants not be satisfied with that, it would be open to them to pursue the matter further directly with the Council in respect of any alleged maladministration.

6. Accepting the Council's explanation of events and assuming the corrected report explained the assessment of the proposal, I note that it correctly refers to the width of the proposed extension being 3.5m as is proposed on the submitted plans. Although there is reference to a separation distance of 1.7m to the side boundary which was presumably based on scaling from the submitted plans, the appellants state that the actual separation distance between the side of the proposed extension and the western boundary of the site would have been greater than that. In a separate decision I came to the same view and in that respect the submitted plan is probably inaccurate. However, I do not consider that would have significantly changed the Council's assessment of the impact of the proposal in the streetscene whereby it came to the conclusion that the development would be unacceptable for the wider reasons set out in the officer report and as reflected in the decision notice dated 25 November 2021. Again this accorded with my own assessment of the proposal.

7. Based on the above, I am satisfied that the Council properly reached a decision which could be substantiated based on the evidence before it and assessment of that evidence.

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

Kim Bennett

INSPECTOR