
Costs Decision

Site visit made on 11 August 2022

by Nick Fagan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 August 2022

Costs application in relation to Appeal Ref: APP/N1730/X/21/3278127 36 Compton Road, Church Crookham, Fleet GU52 6JG

- 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 James Kneller for a full award of costs against Hart District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for the erection of a proposed outbuilding under Part 1 Class E of the GDPO¹.
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Decision

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

Reasons

2. 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.
3. The application is made on the grounds that the Council failed to consider the appellant's legal opinion submitted at application stage and as a result decided the LDC application on the basis of glaring legal errors, which constitutes unreasonable behaviour. The applicant maintains that these legal errors resulted in the Council determining the application based on subjective considerations which have no legal basis in the consideration of such LDC applications, whereas the LDC should clearly have been granted.
4. The Council's delegated report does not specifically mention the legal opinion and does not specifically address the *Peché d'Or* legal judgement. But it does address in detail other relevant caselaw relating to the issue of whether a building would be incidental to a particular dwellinghouse. It also sets out, as do the Council's comments in relation to the appellant's appeal statement, that the applicant has failed to explain why the facilities in the proposed outbuilding are reasonably required for a purpose incidental to the enjoyment of this particular dwellinghouse, as he is required to do by established caselaw.
5. In my decision I explain why I agree with the Council's reasons for refusing the LDC application and why I am therefore dismissing the appeal. Plainly therefore, the Council has addressed the relevant caselaw and has fully justified its decision to refuse the application, including backing up its arguments at appeal.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, an award of costs is not justified.

Nick Fagan

INSPECTOR