
Costs Decision

Site visit made on 5 January 2023

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2023

Costs application in relation to Appeal Ref: APP/P0240/X/22/3293583 16 Stanley Road, Streatley LU3 3PW

- 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 Ravi Shah for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the a certificate of lawful use or development for the existing steel railings around a roof terrace on a single storey rear extension.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals and other planning proceedings normally meet their own expenses. However, it also explains 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. The PPG goes on to explain that amongst other things, an aim of the costs regime is to encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case. Unreasonable behaviour may be either procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal. Unreasonable in this regard, has its ordinary meaning.
3. I have allowed the appeal and issued a Certificate of Lawfulness for the development as described above on the basis that it is 'permitted development' under the provisions of Article 3, Schedule 2, Part 1, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for 'any other alteration to the roof of a dwellinghouse'. This required a fact and degree judgement about the development as I have described in the appeal decision. As such, the decision came down to my personal judgement. Likewise, the Council's decision also came down to their judgement that the provision of a balcony enlarges the house which would invoke Class B rather than Class C. I did not find the judgement of the Council to be irrational or un-arguable. Even though they have not directly engaged with the case-law quoted by the appellant, their assessment and judgement was adequate. Based on that judgement the Council's decision was a reasonable one to make, even though I do not agree with it.

4. The Council's delegated officer report also referred to the planning condition preventing use of the flat roof of the rear extension on which the railings are erected. However, the report had fully engaged with the applicant's case. Whilst there is some implication that the condition added weight to the Council's case that was not a decisive strand to their argument.
5. The Council did not act unreasonably in how it undertook the assessment of the decisive arguments about which 'permitted development' class applied to the railings. Given their judgement, an appeal was necessary if the applicant wished to test that decision. As unreasonable behaviour has not occurred both parties are expected to meet their own expenses as confirmed in the PPG.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Andy Harwood

INSPECTOR