

Costs Decision

Site visit made on 11 September 2023

by Mr C J Tivey BSc (Hons) BPI MRTPI

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

Decision date: 27 September 2023

Costs application in relation to Appeal Ref: APP/P1133/D/23/3321803 Longlands House, Whilborough Road, Kingskerswell, Devon TQ12 5DY

- 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 D Hole for a partial award of costs against Teignbridge District Council.
 - The appeal was against the refusal of planning permission for conversion of an outbuilding to an annexe to the host dwelling.
-

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. The PPG states that awards against a Local Planning Authority may be either procedural or substantive.
3. The partial award of costs is made on the basis that the Council determined the application as being a proposal for a separate dwelling, instead of what had been described in the planning application forms, an annexe. Whilst it is quite clear that the Council do not have a crystal ball to ascertain the use of the building beyond that of the applicant's father, as I found in my appeal decision, it had not been demonstrated that the subject building and Longlands House would fall within the same planning unit.
4. Consequently, I considered that a physical relationship had not been made clear, with the lawfulness of the intervening land being hazy, especially bearing in mind that the original planning permission showed the subject building as forming part of a separate parcel of land in a different use. Furthermore scant detail had been provided on the functional relationship between the two units and I was not convinced that the subject building would be genuinely ancillary.
5. Bearing in mind that I also found harm stemming from the proposal upon the character and appearance of the area, I dismissed the appeal and consequently I consider that overall, the refusal of planning permission did not amount to unreasonable behaviour resulting in unnecessary or wasted expense for the applicant.

6. I consider that unreasonable behaviour as described in the PPG has not been demonstrated and the application for a partial award of costs is therefore refused.

C J Tivey

INSPECTOR