

Costs Decision

Site visit made on 21 July 2023

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2023.

Costs application in relation to Appeal Ref: APP/M1710/W/22/3310677 Aylesfield Farmyard, Froyle Road, Alton GU34 4BY

- 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 P Caplan for a full award of costs against East Hampshire District Council.
 - The appeal was against the refusal of prior approval for the proposed change of use of an agricultural barn to 4 no. Dwellinghouses (Use Class C3) and associated building operations. .
-

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The PPG also indicates examples whereby local planning authorities will be at risk of an award being made against them. This includes failing to produce evidence to substantiate each reason for refusal, or making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. As will be seen from my main decision, I concur with the Council that an unsuitable provision of amenity space can result in a proposal failing to adhere to the provisions of Schedule 2, Part 3, Class Q.2(1)(e) of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO). In addition, I am satisfied in this instance that the Council has shown that it was able to substantiate its reason for refusal. Although the Council made reference to the proposed accommodation being suitable for family living, this was not a specific reason for refusal, nor was it an inaccurate observation to make based upon the size and configuration of the units. It therefore follows that I cannot agree that the Council has acted unreasonably in refusing the application.
5. From the information before me, I understand that the Council raised its concerns with the applicants during the application, albeit did not specifically explain on what grounds the proposal would be refused having regard to the legislation. I appreciate that the Council may be facing high volumes of applications and that a request for an extension of time to determine the application was denied by the applicants. Nonetheless, it remains rather unsatisfactory that the Council failed to respond to queries from the applicants

regarding the merits of the case prior to issuing its decision. However, whilst I can appreciate the applicants' frustrations, even if the Council had more actively engaged with the applicants and specifically informed of its intended reason for refusal, an appeal would still have been necessary.

6. I also note that the Council has not shared the internal correspondence from its landscape officer that was referred to within the case officer's report. Clearly, the sharing of information requested by the applicants would have been a more positive approach and better practice for the Council to take. However, given that this was not determinative to the Council's case (nor my own appeal decision) it has not been shown that withholding the information has resulted in any wasted expense during the appeal process.
7. Finally, through the costs application, reference has been made to another application (ref: 27877/022) whereby the Council granted prior approval for a dwelling under Class Q of the GPDO. I understand that other prior approval scheme would be served by a similar sized curtilage as the appeal proposal, despite having a greater floor area. I have limited details of that other prior approval scheme, however, it does not follow that the Council has behaved unreasonably through being inconsistent in its approach. For example, there may be contextual differences between the schemes (e.g. design, layout, functionality of the proposed garden spaces or the development's surrounding context) which have led to legitimate alternative planning judgements being made.
8. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated and an award of costs is not warranted.

Lewis Condé

INSPECTOR