



Costs Decision

Site visit made on 26 March 2024

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4TH APRIL 2024

Costs application in relation to Appeal Ref: APP/J0350/C/22/3310694 Land at 22 Milton Road, Slough SL2 1PF

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Slough Borough Council for a full award of costs against Mr Mohammed Abbas Khan.
 - The appeal was against an enforcement notice alleging without planning permission the change of use of an outbuilding to form an independent self-contained unit of residential accommodation and facilitating works.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Awards against a party may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
3. The application for costs is based on the claim that the local planning authority (LPA) has behaved unreasonably in the submission of false information. In particular, the LPA considers that the letting agreements and a photograph have been fabricated. Reference is also made by the LPA to on-site discussions between the appellant and an enforcement planning officer prior to enforcement action being taken, but that is not a matter that is directly related to the appeal process itself.
4. The LPA considers that a photograph showing a kitchen in the outbuilding and dated 4 October 2018 has been fabricated. While the evidence from the LPA indicates that it would be possible to change the date of a photograph in 'properties' on a tablet or smartphone, I have nonetheless concluded in my appeal decision that when such a photograph is considered alongside other evidence it is not likely that the date was changed by the appellant.
5. The LPA also claims that the letting agreements submitted by the appellant are false. It questions the authenticity of signatures and a clause within the agreements relating to a requirement to keep the garden at the property in a neat and tidy condition. I cannot be certain what is meant by 'garden' in the agreements, and it is of course possible that some sort of shared garden arrangement was allowed by the tenant.

6. I am unable to reach a definitive conclusion in respect of the signatures relating to the letting agreements and do not find that the evidence before me is sufficient to substantiate the claim made by the LPA that they are false. In any event, in my appeal decision this was not a determinative matter as my conclusion to uphold the enforcement notice was very much based on the failure to demonstrate continuous residential occupation of the outbuilding for a period of four years.
7. In respect of the above, my focus related to the period between 1 October 2018 and 1 April 2020. The evidence from the Council's Council Tax service is that during this time the named tenant was occupying 22 Milton Road and not the outbuilding which was the subject of the enforcement notice appeal. This includes information from the Council's Council Tax service relating to the appellant vacating 22 Milton Road on 30 August 2018 and moving to his parent's home elsewhere and returning to 22 Milton Road from 1 August 2019 until 20 February 2021. The Council's Council Tax service states that the tenant moved into 22 Milton Road between 30 August 2018 and 1 August 2019.
8. In my appeal decision, I have afforded significant weight to the above evidence in so far that it casts significant doubt about the claim made by the appellant that the named tenant had continuously occupied the outbuilding between 1 October 2018 and 1 April 2020. Despite this detailed evidence, as provided in the LPA's statement of case, the appellant did not respond to it at final comments stage. Furthermore, the appellant's statement of case does not deal with this matter. It is in this regard, that I do not consider that the appellant has reasonably substantiated his ground (d) appeal claim which relates to an alleged continuous residential use of the outbuilding as an independent dwellinghouse for four years.
9. For the above reason, I therefore conclude that the appellant has displayed unreasonable behaviour which has resulted in LPA wasted time and expense in appeal process. I therefore conclude that a full award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Mohammed Abbas Khan shall pay to Slough Borough Council the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Centre if not agreed.
11. The applicant is now invited to submit to Mr Mohammed Abbas Khan, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

D Hartley

INSPECTOR