



Costs Decision

by K Winnard LL.B (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 14.05.2024

**Costs application in relation to Appeal Ref: APP/J2373/D/23/3336089
2-4 Gloucester Avenue, Blackpool, Lancashire, FY1 4EJ**

- 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 Mrs Hazel Dennett for an award of costs against Blackpool Borough Council.
 - The appeal was against the refusal of the conversion of a garden room to a self contained annex.
-

Decision

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

Reasons

2. The Planning Practice Guidance advises that irrespective of the outcome of the appeal, 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 appellant submits that the Council acted unreasonably and that the appeal could have been avoided had the Council considered the imposition of a planning condition rather than the insistence on a planning obligation. The appellant is also concerned that in this regard the Council failed to engage actively with the appellant when it had been made clear that the appellant was willing to accept a restriction on the use of the annex.
4. In this instance the Council's position appeared to relate primarily to the scale and level of the facilities provided within the annex, and which is reflected in the amendments it suggested to achieve an outcome other than a refusal of planning permission. I acknowledge that the context within which annex accommodation should be assessed is one of fact and degree and one factor could have been whether the facilities were capable of providing day to day independent living. However the communication between the Council and the applicant appears to have concentrated exclusively on this one issue, and whether as a consequence planning permission itself was required for the scheme.
5. However this does not in itself show that the Council has behaved unreasonably. Whether or not planning permission is required for a development is not a matter within the scope of an application for planning permission and the Council had to determine the application on the information put before it and in line with the policies within the Development Plan. Even if I

were to find that the Council had failed to properly consider the specific imposition of a condition, it seems to me that the Council would have refused the proposal regardless given their concerns in relation to the extent of the facilities provided in the accommodation more generally. The appellant had to address the Council's concerns in line with the policy requirement and it is therefore unlikely, even with the absence of a section 106 agreement, that the appeal could not have been avoided.

6. Reference has also been made to the third reason for refusal as vague and imprecise particularly in relation to floorspace requirements and the policy justification cited which bears no relevance to floorspace standards. I acknowledge that on this point it may have been possible to narrow the scope of the appeal in respect of floor space standards, however in the light of the issue of the impact of the scheme on living conditions generally, the costs associated with the appeal on this point would still have been necessary and an appeal is therefore likely to have been followed anyway, albeit with a more confined reason for refusal.
7. Although I appreciate the applicant's evident frustration with their perception of the Council's approach, insofar as it relates to this costs application, based on the evidence before me, I find that no action or inaction taken by the Council amounts to unreasonable behaviour as described in the PPG, directly resulting in unnecessary or wasted expense.. Therefore, the application for an award of costs is refused.

K Winnard

INSPECTOR