



Costs Decision

Site visit made on 23 May 2024

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2024

Costs application in relation to Appeal Ref: APP/X2410/W/24/3337287 6 Pulteney Avenue, Loughborough, Leicestershire, LE11 2NA

- 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 R Patel for a full award of costs against Charnwood Borough Council.
 - The appeal was against the refusal of planning permission for the conversion of existing outbuilding to a granny annexe for use of occupiers of ground-floor flat.
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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 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 contends that the Council has erroneously assessed the proposal as an independent dwelling and not, as described on the application form, as an annexe. Moreover, he contends that a condition could have been attached to any approval to ensure that the accommodation was not severed from the host building, which would have been appropriate and reasonable.
4. I note that the Council's decision notice is based on the consideration that the proposed conversion of the outbuilding would reflect that of an independent dwelling, and not an annexe ancillary to the ground floor flat in the main building. Whilst I acknowledge that the Council may have come to this conclusion following professional assessment of the situation, it would appear that consideration of the merits of the case have unreasonably concentrated on whether or not the outbuilding would become an independent unit rather than its specific merits as an annexe, as applied for. The decision, therefore, appears not to include full consideration of the fact that the submitted plans do not include provision of a kitchen, or that the outbuilding could, in fact, be used as ancillary accommodation to the ground floor flat and not merely as an independent dwelling.
5. I also acknowledge that the submitted details included with the application do not show the internal arrangements of the flats within the main house, and that it is therefore not possible to fully assess the relationship of the proposed annexe to the host property. Nevertheless, this does not mean that the proposal cannot be assessed as ancillary accommodation to a ground-floor flat, regardless of the ultimate conclusion.

6. Finally, whilst I have concluded in my appeal decision that the use of the outbuilding as a Granny Annexe would not be acceptable in terms of its effect on outdoor amenity space; its awkward access arrangements; and its likely adverse impact on privacy, noise and disturbance, the Council has only fully considered these issues in the context of the proposed development as a separate unit of accommodation.
7. In the light of the above consideration, I find that the behaviour of the Council has been unreasonable.
8. With regard to the potential for controlling the use as the annexe, I acknowledge that concerns relating to the possible independent use of an outbuilding resulting from a proposed conversion could, in many cases, be dealt with by way of a suitable condition limiting its use. However, in this case, the Council has indicated reasons why such a condition may not be possible in terms of precision or enforceability, and I consider it reasonable that the Council should be able to make this judgement.
9. In conclusion, therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial 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 Charnwood Borough Council shall pay to Mr R Patel, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in regard to consideration of the proposal as an independent unit of accommodation as opposed to the Granny Annexe applied for; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Charnwood Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J D Westbrook

INSPECTOR