

Costs Decision

Site visit made on 15 July 2024

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2024

Costs application in relation to Appeal Ref: APP/K0235/D/24/3344202 Land at 28 Brampton Close, Bedford MK42 0HD

- 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 and Mrs Salvatore and Carolina Garganese for a full award of costs against Bedford Borough Council.
 - The appeal was against the refusal of planning permission for front extension to garage and new raised roof with front and rear dormers and conversion to annexe (resubmission with added dormer to rear elevation).
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Decision

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

Reasons

2. Parties in planning appeals and other planning proceedings normally meet their own expenses, but 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. Applications for costs need to clearly demonstrate how any alleged unreasonable behaviour has resulted in such unnecessary or wasted expense.
3. The PPG states that Local Planning Authorities may be at risk of an award of costs where, amongst other things, they:
 - prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - refuse planning permission on a planning ground capable of being dealt with by conditions; or
 - act contrary to, or do not follow, well-established case law.
4. The claimants submit that the Council has erroneously assessed the proposal as being for an independent dwelling though it was submitted, and validated by the Council, as a householder application for an annexe. The Council's reasons for refusal furthermore all stemmed from this assessment. The claimants argue that the matter could have been dealt with by a suitable planning condition, restricting use of the building.

5. The *Uttlesford* case¹ indicates that the assessment of whether or not a proposed annexe should be treated as a separate dwelling is a matter of fact and degree, depending on the circumstances of each individual case. The Council's report makes it clear that, in making this assessment, it considered the scale of the accommodation, its proximity to the house, the facilities to be provided within and the difficulty of enforcing a planning condition preventing use as a separate dwelling. In doing so, it referred to other appeal decisions where Inspectors have come to similar conclusions, including in regard to the possibility of controlling future use by condition. The Council also referred to the expressed need for the accommodation, so that a family member could be cared for. These matters were all relevant to the assessment.
6. As set out in the appeal decision, I disagree with the Council's conclusions, including in regard to the enforceability of a planning condition. This has resulted in the Council's reasons for refusal all falling away. I furthermore find it unhelpful that the Council appears to have placed undue reliance on an indication in the submitted Community Infrastructure Levy form.
7. This does not necessarily mean, however, that the Council's assessment was unreasonable. I find that the Council took material considerations into account in a reasonable assessment, on the basis of fact and degree.
8. The appellant draws my attention to an application for costs that was allowed in relation to a similar case². That Inspector concluded it was unreasonable for the Council to consider the application differently to the description on the application form. The Council also, however, draws my attention to other similar costs decisions where Inspectors have concluded differently³. I have assessed this matter on its own merits, in light of its particular circumstances.
9. Taking all this into account, I find that the Council has made a reasonable assessment. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Les Greenwood

INSPECTOR

¹ *Uttlesford District Council v Secretary of State for the Environment and another* - [1991] 2 PLR 76

² APP/K0235/D/23/3329478

³ APP/K0235/D/21/3268500 and APP/K0235/D/23/3335980