
Costs Decision

Site visit made on 25 June 2024

by L Fleming BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 9 August 2024

Costs application in relation to Appeal Ref: APP/A1530/W/23/3336150 Old Bouchiers Hall New Road, Aldham, Colchester CO6 3QU

- 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 appeal is made by Mr Kevin Cannell for a full award of costs against Colchester City Council.
 - The appeal was against the refusal of planning permission for re-develop the existing Stable block at Old Bouchiers Hall, into a new, modern and energy efficient ancillary accommodation as an extension of the main house. Amenities including 4 bedrooms, 4 en-suite bathrooms, a study-office, kitchen/living room and a utility room.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The appellant alleges that the Council has acted unreasonably on procedural grounds by failing to correctly determine the application for planning permission. It is alleged amended plans and an amended application form describing the proposal as a dwelling were submitted to the Council during the course of the application and the Council should have determined the application on the basis of the amended plans and on the basis of the proposal providing a new separate self-contained dwelling as described on the amended planning application form and not an annex.
 4. I accept the appellant's correspondence dated 11 May 2023 clearly shows that attachments to an email including revised drawings and an application form were emailed to the Council at that time. I note the screenshot of the Council's website showing all those documents sent to the Council via email of 11 May 2023 including the new application form were published. I have also considered the appellants letter dated 15 May 2023, which among other things, clearly states "I now enclose a full set of new drawings in relation to the conversion of the outbuilding into a dwelling. I have also included a revised application form to reflect the change in circumstances".
 5. I note that the revised application form is dated 25 April 2023 and clearly describes the proposal as "Conversion of outbuilding into a dwelling".
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Furthermore, the plans attached to the email of 11 May 2023 are clearly referenced as drawing references PO1-F and PO2-F although they simply describe the proposal as a "Barn Conversion".

6. However, the Council's response to the letter dated 15 May 2023 is not before me. The Officer report dated 29 June 2023, clearly refers to the amended Plans being received on the 11 May 2023 by providing extracts of drawings PO1-F and PO2-F within the report. That report clearly describes the scheme as a four bed annex. Furthermore, in an email dated 09 June 2023 from the Council to the appellant's agents, the Council clearly refer to the proposal as an annex.
7. There is no further correspondence before me which questioned the Council on its description of the proposal after the 09 June 2023. There is also no record of any consultation being undertaken by the Council for a development as described as a new dwelling on the application form dated 25 April 2023. Indeed, the Council say that to change the proposal from an annex to a dwelling would have required a new application and I find no reason to disagree.
8. Overall, I am satisfied that the Council acted reasonably in determining the original planning application dated 01 February 2022. Even if the Council had changed the description of development from an annex to a dwelling, the Council determined the amended plans and its second reason for refusal would still have been applicable irrespective of the use of the appeal building. As such, it seems to me that, either way, the appeal was inevitable.
9. Thus, on this basis, I find unreasonable behaviour resulting in unnecessary expense has not been demonstrated in this case.

Conclusion

10. For the reasons given, unreasonable behaviour resulting in unnecessary expense has not been demonstrated. The application for an award of costs should therefore be refused.

L Fleming

INSPECTOR