The Planning Inspectorate

Costs Decision

Site visit made on 25 July 2024

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 05 November 2024

Costs application in relation to Appeal Ref: APP/B0230/W/23/3335989
165 Barton Road, Luton LU3 2BN

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Samir Riaz for a full award of costs against Luton Borough Council.
- The appeal was against the refusal of planning permission for the use of existing outbuilding to a self-contained granny annexe.

Decision

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

Reasons

2. 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.

3. PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal. Consequently, it is necessary to consider whether the Council has provided relevant evidence to show that there were reasonable grounds for its view.

4. The applicant considers that the Council has exhibited unreasonable behaviour when it assessed the appeal site as an independent dwelling. However, I determined that, as a matter of fact and degree, the outbuilding is being used as an independent dwelling. The development has created a separate planning unit, such that the appeal site now contains two distinct residential dwellings. Given this, it was not unreasonable for the Council to consider that the development would fail to comply with the relevant policies.

5. Whether the application was submitted or validated as a householder application is irrelevant, as this does not affect the application of planning policy.

6. I have considered the use of conditions to secure the use of the outbuilding, but I am not persuaded that such a condition would be enforceable and reasonable.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

S Lo

INSPECTOR