Planning Inspectorate

Costs Decision

Site visit made on 18 December 2024

by Megan Thomas KC Barrister-at-Law

an Inspector appointed by the Secretary of State

Decision date: 14 January 2025

Costs application in relation to Appeal Ref: APP/T0355/D/24/3349294
20 South View, Eton Wick Road, Eton Wick SL4 6PF

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Marianne Lunn for a full award of costs against the Council of the Royal Borough of Windsor and Maidenhead.
- The appeal was against the refusal of planning permission for the replacement and increase in height of the roof and conversion of building from garage to ancillary accommodation in connection with the main dwelling.

Decision

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

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 applicant is of the view that her proposal was for alterations to an outbuilding and its use as living accommodation ancillary to her home. She suggests that whatever the Council believed about the appellant's true intentions, it was bound to assess the proposal that was before it. It is argued that the Council did not have the power to treat the application as if the applicant had applied for an entirely different development, especially when that development would require a different type of application form, a different (much higher) fee and would be treated differently (not fast tracked) if an appeal were submitted.

4. The planning application was for "retrospective permission for works to a pre-existing outbuilding, facilitating the creation of ancillary C3 space and incidental to the main dwelling". At the date of the application according to the application form, works had already started without consent and the work had not already been completed without consent.

5. I do not consider the Council to have acted unreasonably either procedurally or substantively in refusing planning permission based on the reasons for refusal on the Notice of Decision. Given that there was no door in the south elevation, the rear garden to no.20 was fenced off, a front door had been inserted into the northern elevation and the accessway to the former garage shown as outside the application site, I consider it within the realms of reasonable

planning judgment that a Council could take the view that a new planning unit had been carved out of the existing residential planning unit and that a separate self-contained dwelling was in the process of being formed.

6. The Council say "The new fencing in the rear garden of the application site subdividing the plot, the location of the building in the far northern section of the site, and its physical and functional separation from the main dwellinghouse, strongly suggest that there would be an absence of a functional relationship between the accommodation and the main dwellinghouse that could ordinarily be considered ancillary, all of which indicates that the converted building has carved out a new planning unit. The Local Planning Authority were entitled to conclude that the proposal was tantamount to a new dwelling since the appearance and layout on site was not for an ancillary development." Those are reasonable arguments and the fact that I have not come to the same conclusion that a separate planning unit was or has been carved out of the existing planning unit does not render the Council's conduct unreasonable. The appellant has not wasted costs in having to make and argue this appeal. There has been operational development and there was also a clear case to answer in relation to possible subdivision of the plot into two separate planning units.

7. The fact that the retrospective planning application was made on a Householder Application Form for Works or Extension to a Dwelling does not render the Council's approach to the circumstances they carefully ascertained on site and from submitted documentation (i.e. a potential subdivision) an unreasonable approach.

8. It also follows, therefore, that the reasons for refusal which stem from the Council's view that a separate self-contained dwelling was being created were not unreasonable nor unsubstantiated.

9. Turning to the impacts on character and appearance of surrounding properties and the wider area of the physical works to the building, the case officer came to a view that the materials used were unsympathetic, the change in roof form visually disharmonious and the design overly dominant in its "block appearance". I do not consider these criticisms to be generic but ones which relate to an assessment of the built development that had taken place at the site. They are within the spectrum of reasonable planning judgments and, again, the fact that my planning judgment differs from that is not a cogent consideration.

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

Megan Thomas KC

INSPECTOR