



Costs Decision

Site visit made on 8 December 2024

by **A Hartley LLB (Hons) Solicitor MBA**

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Costs application in relation to Appeal Ref: APP/E2530/D/24/3351960 10 High Road, Manthorpe, Lincolnshire NG31 8NF

- 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 Mr David McMullan for a full award of costs against South Kesteven District Council.
 - The appeal was against the refusal of planning permission for the erection of a timber frame carport/garage and the conversion of the existing detached outbuilding to form a residential annexe.
-

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 PPG provides some examples of unreasonable behaviour on the part of the Council relating to the substance of a matter under appeal. The following are relevant to this case:
 - Preventing or delaying development which should clearly be permitted.
 - Refusing planning permission on a planning ground capable of being dealt with by imposing a condition.
4. In this case the Council had no objection to the timber frame carport/garage or the alterations to the existing detached outbuilding. However, it treated the proposal as if it were for a separate dwelling, in the absence of any evidence to substantiate this as a prospect. It also failed to consider the imposition of a condition to restrict the use as ancillary to the residential use of the main dwelling. I find that this amounts to unreasonable behaviour.
5. It is well established in planning law that an annexe of the type in the appeal proposal can be conditioned to restrict its use to being ancillary to the residential use of the main dwelling. The evidence submitted with the appeal clearly set out the proposed ancillary nature of the use as a granny annexe, notwithstanding the fact that the annexe would include all the facilities for day to day living.

6. The failure on the part of the Council necessitated the appeal and thus caused delay to the development in circumstances where it should clearly be permitted. The Council also failed to respond to the appellant's costs application.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 South Kesteven District Council shall pay to Mr David McMullan, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to South Kesteven District 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.

A Hartley

INSPECTOR