The Planning Inspectorate

Costs Decision

Site visit made on 27 September 2012

by Ian McHugh Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 October 2012

Costs application in relation to Appeal Ref: APP/W1715/D/12/2180712
Upton Lodge, Blundell Lane, Bursledon, Hampshire, SO31 1AA

- 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 Mrs M Fairclough for a full award of costs against Eastleigh Borough Council.
- The appeal was made against the refusal of planning permission for erection of detached ancillary stable and store.

Decision

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

Procedural Matter

2. The appellant has invited me to give an opinion as to whether the proposed building would be permitted development, under the provisions of the Town and Country Planning (General Permitted Development Order) 2008. However, my responsibility is to determine this application for an award of costs in connection with the above appeal. I am therefore unable to provide an opinion on the matter of permitted development.

Reasons

3. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only 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.

4. The appellant contends that the Council failed to have regard to the fact that the proposed building is, due to its size, within permitted development limits; and that the development was of a type that would normally be appropriate in a rural location. In addition, the appellant considers that no substantive evidence had been put forward to justify the decision to refuse the application. The appellant argues that the Council's failure to address these matters resulted in unnecessary and wasted expenditure in pursuing the appeal.

5. However, whilst the officer's report on the application does not mention the size of the building in relation to permitted development limits, a planning application was submitted and therefore the Council was entitled to consider the

proposal on its planning merits, having regard to the main issue i.e. the effect of the development on the character and appearance of the site and on its surroundings. Whilst it may have been prudent for the Council to refer to the matter of permitted development, particularly as it had been raised by the appellant in the submitted application, I have no evidence to convince me that the outcome would have been any different, and that an appeal and associated costs could therefore have been avoided.

6. I have noted that the officer's report states that the development is acceptable in principle, subject to it meeting the criteria listed in the relevant Local Plan policies. Whilst the formal reason is brief, the officer's report contains an analysis of the site and its surroundings, and assesses the proposal in relation to its visual impact on the area. The report also makes reference to the size, siting and characteristics of existing development in the locality and to other outbuildings in particular. I acknowledge that in matters relating to character and appearance, there is an element of subjectivity in reaching a decision, but I do not find the Council's decision or assessment to be vague, generalised or inaccurate.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has not been demonstrated.

Ian McHugh

INSPECTOR