
Costs Decision

Site visit made on 7 November 2016

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 14th November 2016

**Costs application in relation to Appeal Ref: APP/W1525/W/16/3156158
Brookdene, Blind Lane, West Hanningfield, Chelmsford CM2 8UF**

- 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 Mr & Mrs C Bingley for a full award of costs against Chelmsford Borough Council.
 - The appeal was against the refusal of planning permission for the replacement of the existing bungalow with a new bungalow together with permission for storage of a temporary caravan.
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Decision

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

Reasons

2. The application for an award of costs was made in writing. Irrespective of the outcome of the appeal, the National Planning Practice Guidance (PPG) states that an award of costs may only be made against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application for costs can be summarised as follows. The statement prepared by the Council is vague and contains several inaccuracies, including the measurements of the height, width and floor area of the existing and proposed dwellings. The Council also incorrectly considered the proposed size of the dwelling relatively to a previously refused scheme and grossly over estimated the percentage increase in floor area. As such, the Council's assessment and subsequent decision was based on a flawed premise. The Council also referred to Policy DC47 even though it has no relevance to the appeal scheme. The Council also failed to have proper regard to the appellant's permitted development rights, other similar decisions and the proposed demolition of existing outbuildings. Additionally the Council failed to have regard to Part 4A of the GPDO¹, which relates to the temporary siting of caravans, imposed an unreasonable condition and failed to impose others.
4. Taking these points in reverse order. The Council did have regard to Part 4A of the GPDO in its appeal statement but did not consider it was relevant as building works are not currently underway. In this respect a clear timetable for the works has not been given in the submissions so the Council's approach to this issue, and its failure to recommend a planning condition, are

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

understandable. Moreover, the planning application included the temporary caravan so the Council did not err in determining the application as presented to them. The failure to recommend a 'drawings condition' is an oversight that has been easily rectified.

5. The Council also provided a commentary on the planning decisions referred to by the appellant and addressed the appellant's potential rights under the GPDO. Nevertheless, as it turns out, these matters have not proven to be determining issues in any event. The Council corrected its reference to Policy DC47, which was clearly an error and thus it did not act unreasonably by otherwise continuing to refer to an irrelevant policy. The Council's openness in respect of this error is helpful to the appeal process.
6. The Council were not presented with existing floor plans and elevations and an overlay was not provided that would have compared the massing and scale of the existing and proposed elevations. The appellants have provided an indication of the existing and proposed footprints but the absence of further details has resulted in an understandable difference of opinions between the Council and appellant's in respect to the sizes of the existing and proposed dwellings. Neither party has robustly set out a methodology or schedule explaining how they have arrived at the figures they did. As such, I do not consider the Council acting unreasonably in coming to the figures they did with the information they had. The reference by the Council to a 187% increase in the size of the proposed dwelling relative to the existing was again a clear error, which the appellant was able to address concisely.
7. Consequently and in light of the above, my overall conclusion is that the Council did not act irrationally in reaching the decision it did. Whilst I do not agree with the Council, I do not consider its approach or reasoning was sufficiently vague and flawed to have been unreasonable. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Graham Chamberlain,
INSPECTOR