
Costs Decisions

Site visit made on 28 February 2017

by Beverley Doward BSc BTP MRTPI

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

Decision date: 15 March 2017

**A: Costs application in relation to Appeal Ref: APP/K0235/D/16/3164766
24 Bedford Road, Wilstead, MK45 3HW**

- 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 Drummond for a partial award of costs against Bedford Borough Council.
 - The appeal was against the refusal of planning permission for extensions and alterations to garage.
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**B: Costs application in relation to Appeal Ref: APP/K0235/D/16/3164766
24 Bedford Road, Wilstead, MK45 3HW**

- 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 Bedford Borough Council for a full award of costs against Mr Drummond.
 - The appeal was against the refusal of planning permission for extensions and alterations to garage.
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Decisions

1. Application A for a partial award of costs is refused.
2. Application B for a full award of costs is refused.

Reasons

3. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

Application A

4. The applicant seeks a partial award of costs with regard to the Council's handling of the planning application and the use of its Design Guidance: Residential Extensions, New Dwellings and Small Infill Developments, with particular reference to Design Codes E1 and E3 in its determination of the planning application. This is on the basis that previous Inspectors considered that the document had limited relevance to the appeal proposals which were for extensions and alterations to the garage.
 5. The Council's Officer Report indicates that the design codes were taken into account in order to provide a full assessment of the proposed garage extension. However, it also refers to a number of development plan policies.
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The Council's decision and reason for refusal refers to policy CP21 of the Core Strategy and Rural Issues Plan 2008 and policies BE29, BE30 and BE37 of the Bedford Borough Local Plan 2002. It seems to me that, given the conflict with these policies of the development plan, the decision would have been the same regardless of the design guidance referred to above and I am not persuaded that this factor alone has caused the applicant to incur unnecessary or wasted expense in the appeal process. Consequently, it does not demonstrate that the Council has behaved unreasonably.

Application B

6. The Council's application for a full award of costs is made on the basis that given the two previous appeal decisions on the site it was clear that the appeal proposal had no prospect of success and that therefore it has incurred unnecessary expense in defending the appeal.
7. The Council did not seek to use its powers to refuse to determine the application under the provisions of Section 70A of the Town and Country Planning Act 1990, albeit I appreciate that these powers are discretionary. Furthermore, whilst the appeal proposal is of similar proportions to one of the previous proposals which was dismissed on appeal, the Council has subsequently granted planning permission for two other proposals for extensions and alterations to the garage, the most recent of these being for a proposal which was in some respects similar to the current appeal proposal. Therefore, although I have found against the appellant in relation to the appeal against the Council's refusal to grant planning permission, it seems to me that it was not so perverse for him to consider that in the light of the Council's subsequent grant of planning permissions there may have been a change in circumstances since the previous appeals. Accordingly, I consider that in pursuing the appeal the appellant has not behaved unreasonably.

Conclusions

8. For the reasons given above therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in either Application A or Application B. Accordingly, Application A and Application B for awards of costs are refused.

Beverley Doward

INSPECTOR