
Costs Decision

Site visit made on 11 December 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 22nd January 2018

**Costs application in relation to Appeal Ref: APP/J0405/W/17/3180873
Land adj Windmill Hill Barns, Moat Lane, Aston Abbots, Buckinghamshire
HP22 4NF**

- 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 Ian Towle for a full award of costs against Aylesbury Vale District Council.
 - The appeal was against the refusal of planning permission for the erection of two detached dwelling houses and open garages utilising existing access track.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) 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.
3. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant submits that the Council acted unreasonably in that it refused permission as the detached dwellings would have a much deeper depth spans and would fail to respect the landscape character of the area with significant negative weight attributed to this. It is advanced that there are no grounds to this argument and the proposal only extends the ground footprint of dwellings (when compared to the extant permission for a pair of semi-detached dwellings) by 1.76%. It is also claimed that the Council have acted inconsistently and that it has attempted to impose an architectural style which is contrary to paragraphs 59 and 60 of the National Planning Policy Framework. Furthermore, there is no discernible difference in space between the appeal development and the semi-detached dwellings scheme.
5. The Council acknowledge the granting of the pair of semi-detached dwellings but contend that the design of the two schemes are not the same, and that two detached houses are not in keeping with the pattern of development in the

area. The Council also considered that the depth of the dwellings and their proximity to the site boundaries failed to respect and compliment the character of the development in the area, including its landscape quality.

6. Whilst the ground footprint of the appeal development is only slightly larger than the semi-detached scheme, it is still nevertheless a larger development. More significantly, the development would have a different overall appearance, being two detached dwellings and would have a materially different rear elevation which includes a greater element of first floor accommodation.
7. As such, whilst some aspects of the two developments are very similar, other aspects are very different. To my mind the differences between the two schemes, and their respective impacts on the character and appearance of the area, are very much a subjective matter. This can also be said in respect of the distances to the site boundaries and the overall design of the development.
8. Whilst I have found in favour of the applicant in my appeal decision, in this case I am satisfied that the Council have provided sufficient evidence to justify its decision at appeal. As such I find that no unreasonable behaviour has occurred in this instance.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Chris Forrett

INSPECTOR