



Costs Decision

Site visit made on 8 June 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2020

Costs application in relation to Appeal Ref: APP/J0405/W/20/3246736 4 Catherine Cottages, Calvert Road, Middle Claydon MK18 2HA

- 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 Philip and Victoria Claridge for a partial award of costs against Buckinghamshire Council – Aylesbury Area.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the erection of an attached dwelling and minor alterations to the existing house.
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Decision

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

Procedural Matter

2. During the course of the appeal, the council who originally determined the planning application merged with a number of other local planning authorities into Buckinghamshire Council. The details in this decision reflect this change.

Reasons

3. The Planning Practice Guidance (PPG) 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. This application claims unreasonable behaviour by the Council in terms of not providing reasons for its failure to determine the application and on the grounds that the Council has provided inadequate evidence to substantiate its objection relating to biodiversity.
4. The Council advised of its intentions to refuse planning permission on 4 December 2019, yet no formal decision had been issued by the appeal submission date of 11 February 2020. In its response to this application, the Council explain that the failure to issue a decision was linked to staffing difficulties. However, the evidence before me fails to show that this was explained to the appellants and so I can understand their frustration the decision to submit an appeal against non-determination.
5. From the appeal submissions, it is clear permission would have been refused if the Council had determined the planning application. Furthermore, it is evident from my appeal decision that I also have concerns with the proposal. The Council has not delayed development that would accord with an up-to-date development plan or would be clearly acceptable in planning terms. It therefore follows that an earlier decision from the Council would not have avoided the

- need to lodge an appeal. Consequently, the failure of the Council to provide reasons for not determining the planning application has not caused unnecessary or wasted costs.
6. The Council's submissions explain its concerns over the lack of information to ascertain whether great crested newts would be harmed by the development. The concerns are based upon the uncontested claims in respect of the proximity of the site to ponds that may be suitable habitat for great crested newts. The Council refer to the National Planning Policy Framework to support its case and the lack of reference to any development plan policy is understandable as there is no saved policy relating to the issue. Consequently, the Council has provided adequate evidence to support its concerns and has not acted unreasonably in this regard.
 7. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is therefore not justified.

Jonathan Edwards

INSPECTOR