



Costs Decision

Site visit made on 11 November 2020

by David Fitzsimon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020.

Costs application in relation to Appeal Ref: APP/K0425/D/20/3254693 48 School Road, Tylers Green HP10 8EF

- 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 Marshall for a full award of costs against Wycombe District Council (now Buckinghamshire Council).
 - The appeal was against the refusal of planning permission for a 'single storey 2 bay detached garage with store and home office/gym to side and rear'.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance 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.
3. The application for costs is made on several grounds. These include that the Council misunderstood the proposal, that the Council did not consider whether a condition could overcome the identified concern, that the Council did not attribute sufficient weight to a previous planning permission and that the Council inconsistently applied planning policy.
4. My Decision Letter explains that I considered the proposed building to be acceptable in terms of design, scale, form and positioning in its own right. It was not necessary for me to refer to an earlier planning permission for a triple garage granted in 2016 (Ref. 16/07129/FUL) which is now time expired and which was different to the appeal proposal in terms of its appearance and footprint in any event.
5. One of the fundamental principles underpinning the planning system is that each proposal must be assessed on its individual merits, taking into account the most up to date planning policy and guidance. To this end, I am of the view that the Council was entitled to come to a different judgement about the overall scale, design and appearance of the proposed building and the consequent visual impact, even if I did not agree with it.
6. The Council's reason for refusal explicitly refers to '*the creation of a separate and direct vehicular access to the front of the addition*'. In rebuttal, the Council points to the fact that the building would be '*independently accessed*'. Whilst I accept that accessing the inside of the proposed detached building would be through doors which are entirely separate to those which serve the

host dwelling, the reason for refusal specifically refers to a '*separate and direct vehicular access*'. The submitted plans show no vehicular access other than one which already serves the appeal dwelling. In this respect, I consider that the Council made a clear error in its assessment of the scheme.

7. Furthermore, I understand that the Council imposed a condition on the earlier planning permission to ensure that the garage building would be used solely for uses ancillary to the host dwelling. The submitted plans relating to the appeal proposal show nothing other than a double garage, store and home office/gym area. To my mind, any concerns that the building would be '*tantamount to the erection of a new dwelling*' could have been overcome by such a condition, as was the approach previously. In my view, the Council failed in this regard also.
8. The above factors lead me to the view that the Council made some errors in assessing the scheme which resulted in a decision and a reason for refusal which was not soundly based. I am mindful that the application may have been refused had these errors not occurred due to the Council's overall concern about the scale and design of the building and its impact on the setting of the host dwelling and the Penn and Tylers Green Conservation Area. Nevertheless, for the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that an award of partial costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wycombe District Council shall pay to Mr & Mrs Marshall, the costs of the appeal proceedings described in the heading of this decision limited to the failures identified above; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The Applicants are now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Fitzsimon

INSPECTOR