
Costs Decision

Site visit made on 25 January 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2021

Costs application in relation to Appeal Ref: APP/J0405/W/20/3259821 Burston Ridge Farm, Aylesbury Road, Wingrave HP22 4RH

- 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 Simon Dewick for a full award of costs against Buckinghamshire Council - North Area (Aylesbury).
 - The appeal was against the refusal of planning permission for the replacement of a prefabricated bungalow with a new residential dwelling.
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Decision

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

Reasons

2. Planning Practice Guidance 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 expense in the appeal process.
3. The applicant considers that the Council behaved unreasonably by failing to request additional information to potentially overcome their concerns at planning application stage, by preventing or delaying a development proposal which should clearly have been permitted, by making assertions unsupported by any objective analysis and by not determining similar cases in a consistent manner.
4. The National Planning Policy Framework (February 2019) sets out that local planning authorities should approach decisions on proposed development in a positive and creative way and should work proactively with applicants. It is evident that amended plans were requested and received during the course of the planning application's determination. Whilst the applicant claims that the Council's requested amendments were acted upon in full, this suggestion has been refuted by the Council and has not been clearly substantiated.
5. Indeed, notwithstanding any change in case officer that occurred during the planning application process, the evidence before me indicates that the Council did not act unreasonably by proceeding to determine the application without seeking a further submission of amended plans. This is particularly so in the context of having previously provided detailed pre-application advice and, as discussed above, having offered the applicant an opportunity to make amendments at application stage.

6. The Council's reason for refusing planning permission refers to the introduction of a new dwelling and to the proposal constituting an isolated dwelling in the countryside. The refusal reason does not therefore appear to fully acknowledge that a replacement dwelling was under consideration. Indeed, whilst the newly proposed dwelling would have been of significantly greater size when compared to the existing bungalow, the planning application had been made based on the intended replacement of a bungalow and should have been determined on such terms.
7. Nevertheless, it remains apparent that the main thrust of the Council's concerns related to harm to the character and appearance of the countryside. This is reflected in the saved Local Plan policies referenced in the reason given for refusing permission. As will be seen from my decision upon the planning appeal that is the subject of this application, the appeal was dismissed due to identified harm to the character and appearance of the rural area. Accordingly, I do not find that the Council prevented or delayed development that should clearly have been permitted.
8. Indeed, the Council's refusal of permission was supported by the position of its Landscape Officer in his or her role as a specialist internal consultee. The Council's assertions in a character and appearance sense were not vague, generalised or inaccurate and I have no clear reason to consider that the contents of the submitted Landscape and Visual Impact Assessment were not taken account of as part of the Council's decision-making. Indeed, any suggestion that a decision was made based upon incomplete evidence has not been clearly substantiated.
9. The applicant has referenced a planning application¹ said to be in a similar location and of similar nature to the appeal proposal here. I am led to understand the site in question is located elsewhere within the District. Any direct parallels between that scheme and the appeal proposal have not been clearly demonstrated. In any event, each proposal must be considered upon its own individual merits and in the context of its own local environment.
10. I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Thus, having had regard to all other matters raised, an award of costs is not justified.

Andrew Smith

INSPECTOR

¹ 12/00535/APP