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## Costs Decision

Site visit made on 9 March 2021

**by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18<sup>th</sup> May 2021**

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### **Costs application in relation to Appeal Ref: APP/K0425/W/20/3261581 The Old House, Forty Green, Bledlow HP27 9PN**

- 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 Lawrenson for a full award of costs against Buckinghamshire Council – West Area (Wycombe).
  - The appeal was against the refusal of planning permission for the construction of a detached outbuilding to provide pool/games/storage/home office facilities, all to be used as ancillary accommodation to the main house.
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### **Decision**

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

### **Reasons**

2. 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.
3. In terms of a procedural award, the applicants indicate a lack of co-operation and unprofessional behaviour by the Council, delay in providing information and introducing fresh and substantial evidence at a late stage in the application process. This has necessitated extra expense for preparatory work for the appeal which would not otherwise have arisen. A fundamental concern is that the Council has not worked proactively and positively with the applicants. There has been considerable detail provided of emails and discussions between the applicants, including their agents, and the Council. There was an expectation that the proposal could have been permitted, even after being informed that amendments made would be unacceptable.
4. However, it is not possible to ascertain whether further discussion could have led to a positive outcome because the positions of both parties in terms of what would be acceptable to them is not clear. Importantly, the PPG<sup>1</sup> indicates that the costs cannot be claimed for the period during the application process. In this respect, the PPG indicates that costs may relate to events before the appeal was brought but also that costs cannot be claimed for the period during the determination of the application. For clarification, the PPG states costs can only be awarded in relation to unnecessary or wasted expense at the appeal but that behaviour and the actions at the time of the planning application can

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<sup>1</sup> Section Appeals paragraph 033 Reference ID: 16-033-20140306 Revision date 06 03 2014

be taken into account in the Inspector's consideration of whether or not costs should be awarded.

5. In respect of tree and ecology matters, the Council has provided a copy of the original ecology and trees checklist for application validation which was filled out incorrectly. If it had been filled out correctly, the need for ecology and arboriculture evidence could have been addressed much earlier in the process. The Council could also have addressed this later in the application process, but it is the first and foremost the responsibility of the person filling in the form to do so correctly. The application submission is that of the applicants.
6. The appeal has been dismissed and therefore, the Council has not prevented or delayed development which should clearly be permitted, having regard to its development plan, national policy and any other material considerations. Notwithstanding this, it has submitted planning, arboriculture and heritage statements. Its statements provide objective analysis in supporting its objections relating to the adverse relationship between the development and the listed building, trees and the character and appearance of the area, having regard to planning policy and guidance. I have agreed with the applicants that a planning condition could ensure that the building would be ancillary, but the Council has provided evidence on size and position to support its counter view. Inevitably, there is subjective judgement involved in any assessment of this nature. Accordingly, the Council has substantiated its reasons for refusal.
7. The Council has drawn to my attention to a refused cost claim at Speen for a detached dwelling, but every application has to be considered on its particular merits as I have done so here.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*Jonathon Parsons*

INSPECTOR