



Costs Decision

Site visits made on 18 February 2021 and 9 March 2021

Decision by Scott Britnell MSc FdA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2021

Costs application in relation to Appeal Ref: APP/X0415/W/20/3260780 Land at and to The Rear of 104-110 Chartridge Lane, Chesham HP5 2RG

- 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 Dr Nick Lewis for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of planning permission for four new dwellings, garages and single storey rear extension to No.108 with associated works, including; demolition works to No.108, provision of vehicular access, parking, turning areas and landscaping.
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Decision

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

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 applicant suggests that in reaching their decision the Council have prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and, acted contrary to, or not followed well-established case law.
4. The Council's decision relies primarily on the lack of compliance with the expected minimum depth for rear gardens set out under saved Policy H12 of the Local Plan¹. In essence, the appellant says the Council's approach in this regard is unreasonable. However, it is the case that the depth of the proposed rear gardens fall some way short of the usual requirement of this policy. On the other hand, the Policy does allow for exceptions in certain circumstances. Assessing such matters necessarily involves subjective judgement. As is clear from my decision, I prefer the arguments of the appellant. Nonetheless, I do not consider the Council's approach to be inherently unreasonable.
5. I acknowledge the officer's recommendation to the Planning Committee was that planning permission should be granted for the proposals, but it does not necessarily follow that the Planning Committee's decision to refuse was

¹ Chiltern District Local Plan Written Statement Adopted 1 September 1997 (Including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011.

unreasonable. In this instance, the judgement as to whether the rear gardens would provide adequate amenity space is necessarily a subjective one that Councillors are entitled to make based on their own consideration of a development proposal, having regard to development plan policy.

6. I note the applicant's comments that the Council seem to be evolving its case following the determination of the application by drawing comparison with other properties in the area as a suggestion that the proposed development would be out of character. While that is not how I interpret the comments made by the Council in their appeal statement, the effect of the proposed development on the character and appearance of the area was a significant concern for local residents and one which I found should be considered a main issue in my decision. As such, it is a matter which the appellant was required to address in any case.
7. The applicant also states that the Council failed to identify relevant material considerations on the face of the decision notice, including setting out the benefits of the scheme or to consider the National Planning Policy Framework. However, I do not consider this to be the purpose of the decision notice and it is not necessary, or indeed practical, for it to be used to repeat arguments or considerations that would be part of the Council's assessment of the application. Consequently, I do not find that the Council have acted unreasonably in this regard.
8. Overall, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated in this case. The award of costs is therefore refused.

Scott Britnell

INSPECTOR