



Costs Decision

Site visit made on 15 June 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th June 2021

Costs application in relation to Appeal Ref: APP/X0415/W/20/3265996 3 Oakington Avenue, Little Chalfont, Amersham, Buckinghamshire HP6 6SY

- 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 Simco Homes Limited for a full award of costs against Buckinghamshire Council - East Area (Chiltern).
 - The appeal was against the refusal of outline planning permission for erection of a single dwellinghouse to rear of existing dwellinghouse with associated access, car parking and amenity space.
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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 where the unreasonable behaviour has directly caused unnecessary or wasted expense in the appeal process. It goes on to explain that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to procedural matters or to the substance of the matter under appeal, and includes not determining similar cases in a consistent manner as one example of such unreasonable behaviour.
3. The Council has previously granted planning permission for development at 1 Oakington Avenue adjacent to the appeal site. There are some similarities with the appeal development in that both schemes propose dwellings to the rear of properties fronting Oakington Avenue. However, as my Appeal Decision makes clear, I consider that there are clear distinctions between them including with regard to the different relationship of the dwelling to the rear of No 1 with Amersham Road. In addition, while the dwelling to the rear of No 1 would not be readily apparent from the Oakington Avenue street scene, I am not satisfied that the evidence before me adequately demonstrates that comparable screening of the appeal development could be suitably and effectively achieved. Notwithstanding that both proposals would lead to a form of 'backland' development, these factors result in materially different effects on the character and appearance of the area, and in this regard, the developments are not directly comparable. I do not therefore find that the Council behaved inconsistently in reaching different conclusions on them taking into account their specific circumstances.
4. I have been provided with copies of correspondence indicating that the case officer dealing with the planning application was minded to recommend approval. The Council asserts that this was informal feedback and there was at

no point a formal recommendation for approval, but a recommendation by a case officer is not in any event binding, and would not fetter the ultimate statutory determination of the application by the Council. I appreciate that the change in the Council's stance would have been frustrating to the applicant. However, the Council advise that this reflected discussions between the case officer and senior colleagues, and from the evidence before me I have no reason to find that these colleagues were not suitably aware of the circumstances of the proposal. The effect of development on the character and appearance of an area is a matter of planning judgement, and I have found that the Council had reasonable concerns which ultimately justified its decision. I do not therefore find that the Council behaved unreasonably in reaching a conclusion contrary to its initial comments.

5. For these reasons, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, the application for a full award of costs is refused.

J Bowyer

INSPECTOR