



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 Buckinghamshire Council - East Area (Chiltern) for a full award of costs against Simco Homes Limited.
 - 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 advise that an appellant is at risk of an award of costs being made if an appeal had no reasonable prospect of succeeding. Examples given of situations where this may occur include when development is clearly not in accordance with the development plan and material considerations to indicate the decision should have been made otherwise are not advanced or adequately evidenced; or when the appeal follows a recent appeal decision in respect of the same or a very similar development found unacceptable and circumstances have not materially changed in the intervening period.
3. The Council asserts that the appellant has acted unreasonably in pursuing the appeal given a recently dismissed appeal for development including the demolition of 3 Oakington Avenue and the erection of three dwellings¹, and the conclusions set out within that decision.
4. The Inspector considering the previous appeal found that it would result in a form of backland development that would erode the predominant pattern of development in the area. However, the decision also highlighted that each of the dwellings proposed would have had a significantly smaller plot size than many of the surrounding properties which would be out of keeping with the character and appearance of the area.
5. I acknowledge that the previous appeal decision subsequently stated that '*due to the concern outlined above regarding erosion of the pattern of development, I consider the site is not a suitable site for development*'. Nevertheless, there

¹ Appeal ref APP/X0415/W/20/3250241

are differences between the schemes, including a reduction in the number of dwellings involved. As a consequence, the dwelling now proposed would be served by a larger plot, and the Council has not argued that the appeal would result in plot sizes out of keeping with surrounding properties. Both schemes involve backland development which I agree with the previous Inspector would be out of keeping with the predominant pattern of development nearby, but their overall effect on the character of the area is accordingly different. I therefore find that the proposal before me was not the same, or very similar to the previous appeal in all respects.

6. In addition, while the previous appeal considered that permission granted for a dwelling to the rear of 1 Oakington Avenue did not have the same harmful effect on the pattern of development as the proposal and attributed it no weight, the decision records that the Inspector did not have all the details of the adjacent scheme in reaching that view. Further details of the neighbouring development have been submitted as part of the current appeal, and with reference to these details including the absence of access from Amersham Road and the screening along the boundary of the site with this street, the appellant has sought to demonstrate that its effect on the pattern of development would in reality be similar.
7. I have not been persuaded by the appellant's case and have also come to the conclusion that the schemes are not comparable in their context or impact. Nevertheless and with regard to the circumstances of the development at No 1, I do not consider that the appellant's arguments were entirely without merit such that this was an inevitable conclusion. Had I found greater parallels between the schemes, this may have altered my assessment of the context of the site and the proposal, including with regard to the effect of backland development in this location. It is possible that this may have overcome the concerns of the previous Inspector, and I am therefore unable to say with certainty that the appeal had no reasonable prospect of succeeding.
8. For these reasons, I do not consider that pursuing the appeal constitutes unreasonable behaviour, nor that the appeal has resulted in unnecessary or wasted expense, as described in the PPG.

J Bowyer

INSPECTOR