
Costs Decision

Site visit made on 15 October 2021

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2021

Costs application in relation to Appeal Ref: APP/Y0435/D/21/3276410 12 Shepperton Close, Castlethorpe MK19 7HR

- 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 Miss Rose Kelly for a full or partial award of costs against Milton Keynes Council.
 - The appeal was against the refusal of planning permission for a 3m single storey extensions and garage conversion.
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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. The PPG states that examples of unreasonable behaviour by local planning authorities include preventing or delaying development which should be clearly permitted, having regard to its accordance with the development plan, national policy or other material considerations.
4. The appellant's case is based on substantive grounds, namely that the Council failed to substantiate a reason for refusal and had no reasonable basis to refuse planning permission. It is clear from the email exchange between the Council and appellant that, despite attempts made by the Council, a copy of the original planning permission for the appeal property cannot be found. Consequently, the appellant argues that there is no conclusive evidence that permitted development rights have been removed and a 'fall-back' position should therefore have been considered.
5. I accept that the potential exercise of permitted development rights is a material consideration and may be claimed as a 'fall-back' position that justifies (or helps justify) a proposal. However, in this case, whilst it is unfortunate that a copy of the original planning permission cannot be found in the archives, the Council's mapping system, which is based on historical information, does clearly identify that certain permitted development rights (Classes 1 and 2(i)) have been removed for all properties in Shepperton Close. I do not find that the Council acted unreasonably in relying on this system and indeed the

absence of the original planning permission appears to have only come to light after the planning application was determined and an appeal submitted.

6. Further, I agree with the Council that the existence of a 'fall-back' position does not necessarily mean that a different decision would have been made based on an assessment of the proposal against Policy 3 of the made Castlethorpe Neighbourhood Plan (2017) particularly in respect of the pitch of the roof. It would have been open to the decision-maker to determine the weight to be afforded to permitted development rights as a material planning consideration. Accordingly, in this case, I am not persuaded that the appeal could have been avoided.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated or that a full or partial award of costs is justified.

R. Jones

INSPECTOR