

Costs Decision

Site visit made on 6 December 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2021

Costs application in relation to Appeal Ref: APP/W0340/D/21/3279589 3A Middle Farm Close, Chieveley, Newbury RG20 8RJ

- 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 and Mrs Martin and Kate Higgs for a full award of costs against West Berkshire Council.
 - The appeal was against the refusal of planning permission for formation of loft conversion with dormer window and velux roof lights with associated internal alterations.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance (PPG) advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The decision on whether to grant permission in this case involved the exercise of judgement concerning the effects on the character and appearance of the host dwelling and the local street scene. Normally, where the outcome of an appeal turns on an assessment of such issues it is unlikely that costs will be awarded if realistic and specific evidence is provided about the consequences of the development. The officer report sets out the Council's concerns regarding the design of the proposed dormer but does not explain why the authority has approved a substantially similar dormer on a property two doors away, and in a more prominent location on the High Street. Given that the appellants had raised the case of 4 Middle Farm Cottages during the application process, it would have been prudent for the officer to have covered this matter in their report.
4. It is an established principle that proposals should be considered on their own merits. However, there is also a reasonable expectation for consistency within the development management process. The PPG explains that local planning authorities are at risk of an award of costs where they fail to determine similar cases in a consistent manner. The Council contests the appellant's suggestion that the appeal scheme was 'almost identical' to the permission at 4 Middle Farm Cottages, but in my opinion there was sufficient similarity between the designs (as illustrated within paragraph 6.7 of the grounds of appeal) for the Council to need to explain any difference in approach.

5. I therefore conclude that the Council has not provided adequate reasons for taking a decision contrary to that which it took for 4 Middle Farm Cottages. The lack of consistency represents unreasonable behaviour and this has led to the appellants incurring unnecessary and wasted expense in lodging the appeal. I therefore find that a full award of costs is justified.

Costs Order

6. In the exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that West Berkshire Council shall pay to Mr and Mrs Martin and Kate Higgs, the costs of appeal proceedings described in the heading of this decision. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
7. The applicants are now invited to submit to West Berkshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Robert Parker

INSPECTOR