The Planning Inspectorate

Costs Decision

Hearing (Virtual) held on 2 August 2022

Site visit made on 3 August 2022

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2022

Costs application in relation to Appeal Ref: APP/J0405/W/21/3282512
1 Rosebery Close, West End, Hoggeston MK18 3RR

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Martin Baylis for a full award of costs against Buckinghamshire Council - Aylesbury Area.
- The appeal was against a failure to give notice within the prescribed period of a decision on an application for planning permission for retention of dwelling unrestricted as to occupancy.

Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

3. The costs application centres on the applicant's claim that the Council: (a) made inaccurate assertions about the proposal's impact, which were not supported by objective analysis and evidence; and (b) failed to determine the application within the prescribed period, and in so doing delayed development that clearly should have been allowed to proceed.

4. PPG indicates that local planning authorities will be at risk of an award being made against them if they make inaccurate assertions about a proposal's impact unsupported by objective analysis and evidence, and delay development that clearly should have been allowed.

5. Regarding matter (a), I see evidence in the draft Officer's Report (OR), in the section on Principle and Location of Development, of the Council's rationale regarding relevance of various planning policies. Also, notwithstanding that the Council's failure to submit an independent agricultural consultant's assessment referred to in the OR is puzzling, the Council was entitled to exercise its planning judgement about robustness of marketing.

6. I see evidence in the Council's draft Officer's Report (OR) of their acknowledgement of the 'proper control over…design' intent of condition 4 of the 1991 planning permission, and an understanding that first floor accommodation construction and garden extension had subsequently been

undertaken at the dwelling without their approval. I also see acknowledgement by the Council in OR paragraph 3.6 that the proposal was not a replacement dwelling. Also, arguments concerning the passage of time since the unauthorised works, and potential enforcement implications did not form part of the appellant's Grounds of Appeal statement.

7. Given the above, it is far from certain that fuller articulation by the Council in their OR of their understanding of the passage of time since the unauthorised works, and potential enforcement implications, would have significantly altered the thrust and balance of their position.

8. The Council accepts that they incorrectly included a 'projecting gable end' in their depiction of additional works in the OR.

9. In respect of matter (b), the Council has set out that it did not determine the application within the prescribed timescale due to staffing issues.

10. To conclude, I find as follows. In relation to matter (a), the Council's inaccurate inclusion of a 'projecting gable end' in their depiction of additional works, and failure to submit an independent agricultural consultant's assessment referred to in the OR were unreasonable.

11. However, it is not clear that had the Council avoided this error and omission, the core appeal arguments would have been substantially different in scope, or an appeal would have been avoided. Within this context, it is not demonstrated, in respect of matter (b), that the Council's failure to determine the application within the prescribed period delayed development that should clearly have been allowed to proceed.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for costs fails.

William Cooper

INSPECTOR