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## Costs Decision

Site visit made on 1 February 2023

**By S Lo LLB M.SRA**

**an Inspector appointed by the Secretary of State**

**Decision date: 20<sup>th</sup> April 2023**

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### **Costs application in relation to Appeal Ref: APP/J0405/W/22/3299519 4, Bridge Road, Ickford, HP18 9HX**

- 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 Ms Laura Bonafont, for a full award of costs against Buckinghamshire Council.
  - The appeal was against the refusal of planning permission the change of Use (retrospective) and extension of a residential outbuilding to a 1 bedroom residential annexe.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. Amongst other aspects, the PPG indicates that local planning authorities will be at risk of an award being made against them if they refuse planning permission on a planning ground capable of being dealt with by conditions and fail to produce evidence to substantiate each reason for refusal.
3. Paragraph 55 of the National Planning Policy Framework is clear that Councils should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. In this case, I have found that a planning condition can be used to ensure that the proposed residential annexe would remain ancillary. Although the Council considered that such a condition could not reasonably be attached to ensure this and raised concerns that there would be no realistic prospect of monitoring compliance, it failed to substantiate why occupation could not be restricted in this manner and why the condition could not be enforced. The Council's concerns relating to the size and nature of the proposed extended building and the appeal site do not change this. Accordingly, there was insufficient evidence before me as to why there were reasonable planning grounds for taking a view that a condition could not be applied to the appeal proposal to ensure its ancillary use as a residential annexe. Had the Council imposed such a condition, the available evidence indicates that the planning application would not have been refused and thus the appeal could have been avoided. In addition, no relevant planning policies were identified by the Council to support its refusal reason.
4. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a

full award of costs is justified. The other matters brought to my attention, including the Council's provision of information to the applicant prior to the appeal being submitted and the time taken by the Council to make a decision on the planning application, do not change this.

**Costs Order**

5. In 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 Buckinghamshire Council shall pay to Ms Laura Bonafont, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
6. The applicant is now invited to submit to Buckinghamshire 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.

*S Lo*

INSPECTOR