



Costs Decision

Site visit made on 20 June 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2023

Costs application in relation to Appeal Ref: APP/X0415/W/22/3303743 Elmwood, Swan Bottom, The Lee, Buckinghamshire, HP16 9NQ

- 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 & Mrs Burton for a full award of costs against Buckinghamshire Council (the Council).
 - The appeal was against the refusal of an application for planning permission for 'change of use of existing outbuilding to a residential annexe for the main house'.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the 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. Unreasonable behaviour can relate to procedural matters (the process) or substantive matters (relating to the planning merits of the appeal).
3. Paragraph 49 of the PPG¹ provides examples of unreasonable behaviours by Local Planning Authorities relating to substantive matters. These include preventing or delaying development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant submits that the Council exhibited unreasonable behaviour by, amongst other things, implying that a marketing exercise is a requirement of local planning policy, and not taking into account all of the material planning considerations.
5. However, within the Council's delegated report, reference was made to the appeal related to land at Chesham Service Station (appeal reference APP/X0415/W/19/3237436), and it was acknowledged by the Council that a full marketing exercise may not be appropriate.
6. Furthermore, and whilst the Council granted planning permission for development on Land rear of Field View and the Spinney, Broken Gate Lane, Denham (application reference PL/20/1655/FA), I do not accept that this demonstrates that they have been inconsistent in their approach to decision making. Planning applications should be determined in accordance with the

¹ 049 Reference ID: 16-049-20140306

development plan, unless material considerations indicate otherwise. Although the Denham application also related to a site within Buckinghamshire, it was within a different former district of the County than land at Elmwood, and was subject of a differing planning policy context.

7. I understand that the outcome of the application will have been a disappointment to the applicant. Nevertheless, I have found that the development subject of the appeal does not accord with the development plan, and no material considerations were put forward to indicate that an alternative decision should have been made from one which is based on the policies of the development plan and national planning policy guidance.
8. On the evidence before me, and in respect of their handling of the application, I find that the LPA exercised their duty to determine the application in a reasonable manner.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

V Simpson

INSPECTOR