



Costs Decision

Site visit made on 15 January 2024

by Chris Couper BA (Hons) DiP TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2024

Costs application in relation to Appeal Ref: APP/K0425/W/23/3326333 13 Stockfield Close, Hazlemere, Buckinghamshire HP15 7LA

- 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 Simon Dixon for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of planning permission for the construction of a first floor side extension, garage conversion and front porch to form a separate 1 bed dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance ('PPG') states that the aim of the costs regime is, amongst other things, to encourage all those involved to behave in a reasonable way and to follow good practice. It 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. An award of costs may result from either procedural or substantive matters.
3. At ID: 16-048-20140306 the PPG sets out that if it is clear to the local planning authority that it will fail to determine an application within the time limits, it should give the applicant a proper explanation. At ID: 16-049-20140306 it continues that a substantive award of costs may be made if, for example, the local planning authority prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; or if it does not determine similar cases in a consistent manner.
4. The appellant sought pre-application advice as encouraged by the National Planning Policy Framework. However, the Council's pre-application letter, which is provided at Appendix B of its Cost Rebuttal Statement, sets out that the scheme would not gain support as subdivision and the creation of a new dwelling in this location would be visually harmful, and would fail to comply with adopted policies and design guidance.
5. I also note from the emailed correspondence provided with the appeal documents and at Appendix A of the Council's Cost Rebuttal Statement, that planning officers raised concerns, before the planning application was determined, that the scheme would not fit in with the grain of development in

the area; and it explained the delays in determining the application, whilst seeking a time extension to 30 June 2023, which was agreed to by the applicant. Whilst it was over two weeks after that before the application was determined, the Council has adequately explained the reasons for the delays.

6. There are clear material differences between the scheme before me, which is for a separate dwelling, and the permitted house extension on the same site. The Council's decision and the accompanying delegated report appropriately explain the reason why the application was refused by reference to the development plan and other material considerations.
7. Finally, the applicant maintains that he needed to take advice from his planning consultant regarding the best way forward, including a possible appeal against non-determination; and that he was then put to the unnecessary and wasted expense of the appeal.
8. However, it appears to me that advising clients on the best way forward is generally part and parcel of a planning consultant's instruction. In my appeal decision I have found that the scheme would harm the character and appearance of the area and, having regard to the PPG, this is not therefore a case where the Council prevented a development which should clearly have been permitted.
9. Consequently, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated, and the application for an award of costs is refused.

Chris Couper

INSPECTOR