



Costs Decision

Site visit made on 15 April 2024

by Chris Couper BA (Hons) DiP TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17.05.2024

Costs application in relation to Appeal Ref: APP/C1570/W/23/3333221 Cranwellian, The Street, Takeley, Essex CM22 6NB

- 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 Tear for a full award of costs against Uttlesford District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for 'rebuilding of dwelling following total loss due to fire and the erection of single storey rear extensions approved previously but not erected prior to fire'.
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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. In summary, the applicants maintain that the planning application was supported by sufficient evidence related to contamination and drainage matters, which the Council accepted when issuing conditional planning permission for a previous application for a house extension on the site. They maintain that the Council in its approach to this application was unduly swayed by an earlier decision by the Local Government Ombudsman and by representations from neighbours.
5. They continue that the dwelling functioned perfectly prior to the fire, and that the Council has behaved unreasonably in failing to issue a decision within the

prescribed period, thus causing the appellants to incur additional costs in submitting an appeal.

6. For my part, whilst I noted in my appeal decision that waste was deposited on the site prior to the applicants' purchase of it, those historic activities nonetheless impact the ground conditions and therefore need to be taken into consideration for any current development proposals.
7. Additionally, in my appeal decision I was not persuaded from the evidence before me, that the previous dwelling's foundations could be re-used. Consequently, the Report on Ground Investigation by Sue Slaven, which was prepared to accompany the application for a house extension, did not provide a suitable assessment of any contaminants that may lie under the foundations of the former house, and which could be disturbed as a result of the proposed rebuilding of the dwelling.
8. I have also found that the application was supported by insufficiently clear and cogent evidence to demonstrate how the drainage regime would operate, and whether or not potentially contaminated water discharge could adversely impact an adjacent Site of Special Scientific Interest.
9. Whilst it appears that the Council did not formally seek any time extensions for determining the application subject to the appeal, it is clear from the appendices in the appellants' statement of case that the Council had dialogue with the applicants. That included two emails dated 6 October 2023, and one dated 10 November 2023 shortly before the appeal was made, in which the Council set out that it did not consider the submitted drainage report fit for purpose, and explained briefly why it considered that relying on the imposition of conditions related to drainage and contamination matters would be inappropriate without the submission of additional evidence.
10. In my decision I have also found that the application was supported by insufficient evidence regarding the proposed development to enable the appeal to succeed and for planning permission to be granted. Given my findings in this letter and in the appeal decision, the Council did not delay development which should clearly be permitted, and the applicants have not therefore incurred unnecessary or wasted expense in submitting the appeal.
11. Consequently, whilst I have had regard to the fact that the Council has not offered evidence to counter the costs application, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and the application for an award of costs is refused.

Chris Couper

INSPECTOR