



Costs Decision

Site visit made on 12 March 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2024

**Costs application in relation to Appeal Ref: APP/N0410/D/23/3328512
Dair Cottage, Beaconsfield Road, Farnham Royal, Buckinghamshire
SL2 3BY**

- 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 Sean Chandiram for a full award of costs against Buckinghamshire Council - South Area (South Bucks).
- The appeal was against the refusal of planning permission for alterations to existing side (northern) roof slope between existing dormers in order to provide more headroom to first floor bedrooms and alterations to existing gable and insertion of 2 additional first floor windows (As approved under ref. PL/20/0029/FA).

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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.
3. The applicant claims that the Council's reasons for refusing the application were unreasonable and they have failed to provide any substantive evidence to support them. The PPG is clear that unreasonable behaviour includes making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

Whether very special circumstances exist

4. The consideration of whether there are other considerations to outweigh the harm identified to the Green Belt is a matter of planning judgment. Neither the officer's Delegated Report nor the first reason for refusal addresses the applicant's case that despite the scheme being inappropriate development in the Green Belt it should be allowed because very special circumstances exist. The Council's decision is not adequately substantiated regarding the fallback scheme, and it remains unclear as to whether it would have reached a different conclusion on this issue if full consideration of this had been taken into consideration. Neither does the Council's response to the cost claim directly address this point. This amounts to unreasonable behaviour.
5. Although in the main decision, I have found that very special circumstances do not exist, the applicant nevertheless has had to incur unnecessary costs and

wasted expense in contesting this reason for refusal. This could have been avoided if a more thorough approach had been adopted by the Council.

Site visit

6. Although it is good practice, there is no statutory requirement for the Council to carry out a site visit. In itself, the absence of a site visit is not demonstrative of unreasonable behaviour. It is evident from the Council's response that they had local knowledge of the appeal site from recent site visits, relating to the previous applications. The Council's position is supported by observations of the appeal site and its surroundings.
7. The applicant's disagreement with the Council effectively amounts to a difference of opinion regarding the effect of the proposal on character and appearance which is a matter of planning judgement. The Council set out their reasoning with respect to the effect of the proposal on the character and appearance of the house in the Delegated Report.

Bat surveys

8. As will be seen from my main decision, without the additional bat surveys, there is a risk that protected species could be harmed by the proposal. Even if the surveys were requested, there is no certainty that any proposed mitigation would make the proposal acceptable. The Council has provided clear reasoning in the Delegated Report and response to the cost claim for why permission was refused on this issue and has therefore not acted unreasonably in this regard.
9. The reasons for refusal set out in the decision notice are specific and relevant to the application and make clear reference to the development plan policies and national planning policy which the proposal would conflict with.

Conclusion

10. Having considered the grounds for costs, I conclude that part of the first reason for refusal is not fully substantiated or supported by objective analysis. Unreasonable behaviour resulting in unnecessary or wasted expense has been demonstrated. Consequently, a partial award of costs to cover the unnecessary expense incurred by the applicant in contesting the first reason for refusal relating to very special circumstances is justified.

Costs Order

11. 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 - South Area (South Bucks) shall pay to Mr Sean Chandiram, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the first reason for refusal relating to very special circumstances; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Buckinghamshire Council - South Area (South Bucks) to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

L Reid INSPECTOR