



Costs Decision

Site visit made on 16 July 2024

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19TH AUGUST 2024

**Costs application in relation to Appeal Ref: APP/W0340/X/23/3321289
Field View, Kiff Green, Upper Woolhampton, West Berkshire, Reading RG7
5TN**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Stephen John Collins for a full award of costs against West Berkshire District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for construction of detached double garage with space for storage of tools and garden machinery.
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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 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 has made a claim for a substantive award of costs against the Council. The applicant has outlined that the Council did not carry out a site visit, which would have allowed them to make a decision on the extent of the curtilage at the time of the application. The appellant claims the application decision was based on a predetermined opinion regarding curtilage. The applicant claims the Council's behaviour was unreasonable because they failed to have regard to LPA policy or case law, did not consider all of the evidence provided and failed to provide their own evidence to show the relevant area is not curtilage.
4. The Council accept they did not carry out a site visit but suggest that they were aware of the site from recent visits. Also, the recent appeal decision¹ had provided commentary on the curtilage of the dwelling, and the appellant failed to provide any substantive evidence to indicate there has been any subsequent changes to the established curtilage since that time.
5. I appreciate that the outcome of the application will have been a disappointment to the applicant, and it is reasonable to expect a visit to be carried out in most cases to make the most informed decision.
6. Nevertheless, a site visit is not a statutory requirement, and the onus is on the appellant, not the Council, to provide the evidence needed to discharge the required burden of proof with an LDC application. The appellant only included

¹ Appeal reference APP/W0340/X/22/3290914

plans and an Application Form with the initial LDC application and did not set out the changes made on site since the previous appeal. The previous appeal decision was material to the determination of the LDC application, particularly since it was a very recent decision on the same site and included commentary on the curtilage.

7. In view of the above, and notwithstanding my decision on the accompanying appeal, I do not consider that the Council predetermined the application. Instead their decision was based on recent site visits, the evidence submitted as part of the LDC application as well as the relevant planning history. Although a further site visit would have been beneficial, the applicant did not make it clear in the application that changes had been made since the previous appeal.
8. As such, I do not think it was unreasonable for the Council to decide a site visit was unnecessary and based their decision on the information submitted with the LDC application. Further to this, even if the Council agreed that the additional information submitted with the appeal was sufficient to overcome their reasons for refusal, I would still have had to determine the appeal. Accordingly, the appeal following the refusal could not have been avoided.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense at the appeal stage has not occurred, and an award of costs is not warranted.

M. P. Howell

INSPECTOR