



Costs Decision

Site visit made on 23 July 2024

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2024

Costs application in relation to Appeal Ref: APP/N0410/W/23/3328654 Barnfield, 10 Mid Cross Lane, Chalfont St. Peter, Buckinghamshire SL9 0LF

- 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 Amerjit Braich for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of planning permission for demolition of existing bungalow and erection of detached house and outbuilding.
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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 ('the 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. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. Examples given in the PPG of behaviour that may give rise to a substantive award against a local planning authority include refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed.
4. The application subject of the appeal follows an earlier application that was withdrawn. The applicant suggests that the appeal scheme had been amended in line with advice given by the case officer for the initial application. However, while the amendments made to the appeal scheme may have reduced the bulk from the earlier proposal, that does not necessarily mean that improvements would be sufficient to address the concern so as to be acceptable. Indeed, I have found in my decision that the appeal proposal would still be excessively bulky at roof level. From the material submitted, I find no clear evidence to show that the Council had disregarded or reneged from any advice that may have been given to the applicant or a stated view that the scheme would be acceptable. In any event, informal advice or views given by officers is not binding on any future decision made by the Council.
5. The applicant also alleges a lack of support from the Council and that the planning officer made no contact when the application subject of the appeal was submitted. However, I have been provided with copies of an email from

the case officer to the applicant's representative providing feedback on the application before it was determined, as well as an email chain between the team leader and applicant. This correspondence indicates to me that there was in fact contact made during the application, including fairly detailed explanations of the process and position. The applicant may have desired feedback earlier in the application timeline and I note references in the email chains to unreturned calls and messages. Even so, the Council did make contact well within the statutory determination period and while the applicant may have had some difficulty in being able to speak to an officer, I do not find the time taken to provide feedback was excessive or unreasonable.

6. The case officer feedback on the appeal application advised that concerns raised in the previous scheme had not been addressed and that the application could not be supported. The applicant was not offered an opportunity to amend the proposal, but there is no statutory obligation on the Council to seek amendments and in my view, it was not unreasonable for the Council to consider that its concerns could not be addressed through amendments within the scope of the application. Furthermore, the Council's feedback explained the reasons why the development proposed was considered to be unacceptable in some detail. The applicant had not sought formal pre application advice to inform the scheme which would have enabled the Council to provide more detailed advice on changes to overcome concerns, and I have no firm reason to find that the Council was obstructive or that it unreasonably withheld advice.
7. The applicant claims that the planning manager stated that the construction would be ugly implying that there was no intention to pass or give improvement to the application, but there is no clear evidence before me to show that the Council did not give proper consideration to the appeal scheme and the material that was before it. The applicant also refers to discriminatory comments. However, the costs application does not identify which comments they are referring to. Furthermore, the character and appearance of a development is effectively a subjective matter of planning judgement and while the applicant may disagree with the views expressed in the representations or by Council officers, that does not mean they are discriminatory. In addition, the applicant's appeal submissions include no substantive response to points raised in comments made on the proposal, and it is unclear to me how these comments would have resulted in the applicant incurring unnecessary or wasted expense in the appeal process.
8. The initial and appeal applications may have been dealt with by a number of different case officers at the Council, but the case officer's feedback on the appeal application refers to discussion with the previous case officer on the scheme, and I have no firm reason to consider that they were unaware of the background to the proposal. In any event, changes in case officers dealing with applications may be necessary for a variety of reasons and is not compelling evidence of unreasonable behaviour.
9. The applicant may be frustrated with the Council's handling of the applications, but costs can only be awarded in relation to unnecessary or wasted expense in the appeal process. Given the above factors and the evidence before me, I am not persuaded that the Council failed to offer reasonable help and advice to the applicant. I consider that the Council exercised their duty to determine the appeal application in a reasonable manner and the appeal could not have been

avoided. As such, the applicant has not been put to unnecessary or wasted expense in the appeal process.

10. For these reasons, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, the application for a full award of costs is refused.

J Bowyer

INSPECTOR