



Costs Decision

Site visit made on 17 September 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2024

Costs application in relation to Appeal Ref: APP/C1570/D/23/3335860 Medhurst, High Easter Road, Barnston, Essex CM6 1LZ

- 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 J Johnson for a full award of costs against Uttlesford District Council.
 - The appeal was against the refusal of planning permission for demolition of single storey rear extension and roof over attached garages, erection of rear extension with dormer windows, first floor side extension and timber balcony and handrail including balustrades and posts.
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Decision

1. The application for an award of costs is 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 submits that the Council has acted unreasonably due to its failure to acknowledge similar applications at the appeal property that were granted planning permission in 2017 and 2020. Although the planning history at the site was listed in the officer report, it is alleged that it was not given due consideration by the Council in the decision-making process. For these reasons, the applicant seeks a full award of costs.
4. Paragraph 049 of the PPG indicates that local planning authorities will be at risk of a substantive award being made against them for, amongst other things, not determining similar cases in a consistent manner and failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission, where there has been no material change in circumstance.
5. Most recently, planning permission was granted at the appeal property for the demolition of single storey rear extension and roof over attached garages and the erection of rear extension with dormer windows and first floor side extension. This permission expired in June 2023. Copies of the floor plans and elevations of this permission show the similarities between that scheme and the appeal proposal, with only minor variations now proposed including the addition of a timber balcony and the reuse of the existing garage doors. The general scale and massing, including the bulk and scale of the roof created by the extension, remains unchanged in the appeal proposal from that previously granted permission.

6. The Council indicate that regard was had to the previous permissions at the site. Nevertheless, this is not clear from the officer report which aside from listing the planning history of the site, contains no other reference to the previous permissions. While the Council's costs rebuttal suggests that the appeal scheme is substantially different to the previous permissions, the differences have not been clearly articulated in the officer report. Consequently, despite the reason for refusal being sufficiently detailed, in the absence of any substantive evidence that the other permission was adequately considered, it is not clear why the Council has deviated from its previous position. As such, it has not determined similar cases in a consistent manner, and I find that the Council acted unreasonably.
7. Furthermore, the previous decision at the appeal site was made against the same development plan policies as the appeal scheme. The Council has not made me aware of any material change of circumstances in the period between these decisions. While it is a well-founded principle of the planning system that each proposal should be considered on its own merits, in this particular case, given the clear similarities with the previous permission at the site and no change in development plan policy context, there was an unreasonable level of inconsistency in the Council's approach.
8. It appears to me that the Council failed to grant a further planning permission for a scheme that is the subject of a recently expired permission where there has been no material change in circumstance. In doing so the Council was inconsistent by not determining similar cases in a similar manner. This constitutes unreasonable behaviour contrary to the guidance in the PPG and the applicant has consequently been faced with the unnecessary expense of lodging the appeal.
9. For the reasons given above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

10. 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 Uttlesford District Council shall pay to Mr J Johnson, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Uttlesford District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

F Harrison

INSPECTOR