
Costs Decision

Site visit made on 4 December 2024

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2024

**Costs application in relation to Appeal Ref: APP/K0425/W/23/3330547
Windmill Cottages, Main Road, Lacey Green, Buckinghamshire HP27 0QH**

- 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 Buckinghamshire Council - West Area (Wycombe) for a full award of costs against Millen Homes Limited.
 - The appeal was against the refusal of planning permission for erection of a pair of semi detached dwellings on land to the rear of Windmill Cottages.
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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 Council is seeking a full award of costs against the appellant on the basis that the appeal had no reasonable prospect of succeeding. Also, that insufficient evidence was provided in support of the grounds of appeal and that additional information was provided at a late stage in the appeal which led to the need for additional work.
4. An appeal was dismissed for a three house scheme on the same site in 2020. Nonetheless, it does not automatically follow that an alternative proposal would have no prospect of success. It will be seen in the Appeal Decision that I concluded that the proposal would not be inappropriate development in the Green Belt. Consistency in decision making is important, however, such matters fall to a matter of judgement based on the facts and evidence provided for each case. Therefore, although this latest appeal was dismissed, I do not find that it had no prospect of succeeding.
5. In respect of evidence on protected species, it will be seen from the Appeal Decision that I also found that evidence on that matter was insufficient. In this instance the appellant points to an administrative error that meant that the updated preliminary ecological appraisal (updated PEA) carried out in support of the appeal was not provided until the final comments stage. Whilst the lateness of the updated PEA meant that it could not be accepted with the appeal, there is no substantive evidence to indicate that it was intentionally delayed, or that the lack of such information resulted in the Council incurring unnecessary expense.

6. The Council has also expressed concern in relation to the unilateral undertaking submitted at appeal. Specifically, the inclusion of the option to off-set biodiversity off site. However, as this was in response to a reason for refusal relating to biodiversity, it was not unreasonable to do so. Similarly, the inclusion of an affordable housing contribution in the unilateral undertaking appears to have followed on from discussion on the matter at application stage. Although the Council did not agree with the approach, I find that its inclusion at appeal does not clearly amount to unreasonable behaviour.
7. It will be seen from the Appeal Decision that I was satisfied that the proposal would be acceptable with respect to its impact on the character and appearance of the area, including in respect of the Chilterns National Landscape (formerly the AONB). As such I find that the appellant has not behaved unreasonably on this matter.
8. I therefore find that unreasonable behaviour by the appellant, resulting in unnecessary or wasted expense as described in the PPG, has not been demonstrated.

Rachel Hall

INSPECTOR