
Costs Decision

Site visit made on 22 October 2024

by **J Moss BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 January 2025

Costs application in relation to Appeal A Ref: APP/N0410/X/24/3342315

Cliveden Stud House, Cliveden Road, Taplow, Buckinghamshire SL6 0HL

- 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 Mahadevan Krishnamohan for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of a certificate of lawful use or development for the erection of the dwellinghouse known as Cliveden Stud House.
-

Costs application in relation to Appeal B Ref: APP/N0410/X/24/3343710

Cliveden Stud House, Cliveden Road, Taplow, Buckinghamshire SL6 0HL

- 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 Mahadevan Krishnamohan for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of a certificate of lawful use or development for the use of Cliveden Stud House otherwise than in compliance with the conditions attached to the outline planning permission with reference number ER/1466/68.
-

Decision

1. The application for an award of costs is refused.

The submissions

2. The reasons given by the costs applicant (the appellant) for the costs application are summarised as follows:

With regard to Appeal A:

- The Council has failed to deal with the grounds of appeal;
- The Council has not identified the land to which the ER/1466/68 outline application related;
- The Council has not addressed the question of the validity of the ER/1466/68 outline application;
- The Council has misinterpreted the previous Inspector's decision; and
- The Council has failed to address the arguments put forward by the appellant.

With regard to Appeal B:

- The Council has failed to understand the reason for this appeal.

3. I have had regard to the Council's response in reaching my decision.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance on Appeals (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.
5. The principle point of the appellant's case on Appeal A is that the ER/1466/68 outline application was an invalid application. It is for this reason that the appellant suggests that the dwellinghouse known as Cliveden Stud House (the Dwellinghouse) does not have the benefit of planning permission. This case was made as an alternative to that made under the previous appeal (reference APP/N0410/X/22/3310567), which I will refer to hereon in as 'the 2024 Appeal'.
6. The Council's response to the appellant's principal point under Appeal A, is simply put. In conclusion in the Officer's report relevant to the Appeal A LDC application it states that the validation requirements at the time of submission of applications ER/1466/68 and ER/679/70 were considered and that it was satisfied that the required information had been submitted. The Council also suggested that it was open to the previous Inspector to consider the matter of validity of the ER/1466/68 outline application, but they did not. Indeed, in responding to the appellant's case on Appeal A, the Council have mainly relied on the 2024 Appeal decision. Although the Council's response to Appeal A has been simply put, I cannot find fault in the Council's approach. It is clear from the previous Inspector's decision that they considered there to be a valid planning permission granted by reason of the ER/1466/68 outline application. I do not find it unreasonable of the Council to have relied on this in its response to the appeal.
7. The burden of proof was on the appellant to demonstrate that the Dwellinghouse is lawful for the reasons that they stated. Whilst the Council did not identify the land to which the ER/1466/68 outline application related, I do not consider it to have behaved unreasonably in relying on the 2024 Appeal decision as evidence to contradict the appellant's claim that the outline application was invalid.
8. Although not repeated in the costs application, I have noted the suggested examples given by the appellant of the Council's incorrect statements and misinterpretation of the 2024 Appeal decision, which include those set out in paragraph 3.2 of their appeal statement. The Council may well have incorrectly suggested that an appeal had been made against another application relating to the appeal site. This is a matter that is not before me and does not in any event demonstrate unreasonable behaviour in the appeal process for either Appeal A or Appeal B.
9. The appellant refers to matters discussed at the hearing for the 2024 Appeal. In reaching my decision I have had regard to the 2024 Appeal decision. Any dispute with regard to what was discussed at the hearing is not for me to consider. These are events outside of this appeal process and are not, therefore, relevant to this costs application.
10. I do not consider the Council's summary included at paragraph 3.2.3 of the appellant's appeal statement to be inaccurate. Neither do I regard the Council's claims in the officer's report, referred to at paragraphs 3.2.6 and 3.2.8 to be incorrect. The Inspector's conclusion was that the outline application did not relate only to the land identified with a 'red' annotation on the plan entitled 'block plan',

and at paragraph 30 of their decision they are satisfied that ‘the building would, on the balance of probability, have been in accordance with the reserved matters approval’. Whilst the appeal was dismissed and an LDC not granted, the Inspector’s decision cannot be read in any way other than that they conclude that the Dwellinghouse was lawful because it has the benefit of the permission granted by reason of the ER/1466/68 outline planning application and subsequent reserved matters approval.

11. The appellant’s comments at paragraph 3.2.3 with regard to the relevant plans reiterate their case in the appeals and do not assist in demonstrating that the Council have behaved unreasonably in this case.
12. Having regard to all of the above, I cannot find that the Council has demonstrated unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process on Appeal A.
13. Turning to the appellant’s claims with regard to Appeal B, I cannot agree that the Council has failed to understand the reason for this appeal.
14. The description of the matter for which the LDC was sought for the 2024 Appeal is different to that stated on Appeal B. However, in the statement accompanying the Appeal B application the appellant identifies two propositions that were the subject of the 2024 Appeal application and confirms that the Appeal B application ‘is limited to the first proposition’.
15. The appellant says that Appeal B was made in order to provide me with ‘an alternative option for dealing with the lawfulness of the property in question’. The appellant suggests that there are only two options, the first of which is that considered under Appeal A. The second suggested option is to reach a conclusion that would have been contrary to that of the previous Inspector in the 2024 Appeal.
16. The appellant has, however, made the same case on Appeal B as was made (i.e. the first proposition) on the 2024 Appeal. In the appellant’s costs application they also confirm that the Council are correct, that the evidence submitted for Appeal B is the same as that submitted for the 2024 Appeal. Furthermore, I can identify no material change in the relevant circumstances between the 2024 Appeal decision and the making of Appeal B.
17. In this regard, I cannot conclude that the Council has failed to understand the reason for Appeal B. Its reliance on the 2024 Appeal decision in defence of the appeal is an entirely reasonable response to the appellant’s case.
18. With regard to the additional evidence referred to by the appellant in Appeal B (i.e. the exchanges between the appellant and the Council in 2022), the Council may not have directly responded to this in its submissions on Appeal B. Nevertheless, its official position is clearly contrary to whatever might have been suggested in 2022, which is that the Dwellinghouse was constructed with the benefit of the ER/1466/68 outline planning permission.
19. All things considered, I conclude that the Council has not demonstrated unreasonable behaviour resulting in unnecessary or wasted expense in its response to Appeal B.

Conclusions

20. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense in both Appeal A and Appeal B has not occurred and an award of costs is not warranted.

J Moss

INSPECTOR