



Costs Decision

Site visit undertaken on 30 December 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: **28 January 2025**

Costs application A: in relation to Appeal Ref: APP/J3720/W/24/3349497 Rose Garden, The Tunnel, Farnborough OX17 1EH

- 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 and Mrs Neil and Sarah McNab against the decision of Stratford-on-Avon District Council.
 - The appeal was against the refusal of planning permission 'to erect a new 1no. Self-Build Class C3 3-Bed Eco Dwellinghouse, Access, Landscaping and Associated Works on land at Rose Garden, The Tunnel, Farnborough OX17 1EH.'
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Decision Costs Application:

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 Appellant has put forward ten grounds for unreasonable behaviour which relate to the procedural elements (relating to the process) and substantive elements (relating to the issues arising from the merits of the appeal). I turn to the grounds below.
4. Ground 1 relates to the time taken to validate a previous planning application 23/02012/FUL in that the Appellant feels the Council acted unreasonably due to the time taken and the Agent chasing. The previous application which according to the appeal documents was withdrawn is not part of the considerations under this current appeal or the planning application subject to this appeal. In accordance with the NPPG¹ a previous planning application does not relate to this current appeal and the refused application in question. As such in accordance with the NPPG this ground is not eligible for an award of costs.
5. Ground 2 relates to the time spent to the Case Officer with regards to a WCC Highway Objection. As per the submitted appeal documents, it would appear that the first planning application had an objection from the Highways team. Dealing with objections which appear to have been resolved are ordinarily part of the planning application process. The fact that this objection has been resolved

¹ Paragraph 032 Reference ID: 16-032-20140306 Revision Date 06 03 2014

illustrates that parties were able to find resolutions and that this was not wasted expense. Additionally it would appear that the ground relates to the previous planning application which as per reason 1, is not eligible under the NPPG for an award of costs.

6. Ground 3 relates to the Appellant feeling that they were forced to withdraw the first application which required them to pay an additional fee and their Agent to lodge a new application. I have not seen any evidence that the Appellant was 'forced' and it is normally common practice for a Council to advise an Agent that their application would be refused unless they withdraw. I am not of the opinion that this is unreasonable, and the Agent also had the opportunity to not withdraw, allow the Council to refuse and have the application appealed. Despite this, as per grounds 1 and 2, this ground relates to a previous application and as per the NPPG is not eligible for an award of costs.
7. Grounds 4, 5, 6 and 7 relates to the same issues which revolves around a formal complaint procedure between the Applicant and the Council with regards to the specific case officer allocated to the planning application as it was the opinion of the Applicant that the Case Officer had shown bias in the first application and that they wanted a different case officer for the second application which was refused. Whilst the appellant and agent may feel aggrieved by obtaining negative responses from the Council and Case Officer there is no information before me that would demonstrate that the Council has behaved unreasonably in this respect. As noted in the appeal, the main policies listed in the reason for refusal were relevant to the determination made. The allocation of case officers is undertaken at the discretion of the Council, it is not an eligible matter which is relevant to the procedural or substantive elements of the application or appeal process. As such, the grounds 4, 5, 6 and 7 are not matters that are eligible under the NPPG for an award of costs.
8. Ground 8 relates to the time needed to deal with a second objection from the WCC Highways team with regards to the application which the Appellant deems to be an excessive amount of time wasted. No evidence has been submitted in order to illustrate how the dealing with the objection was excessive. The objection would not have been expressed by the Case Officer had it not been an important consideration that could have also been used as a reason for refusal on the decision notice. The fact that this matter had been resolved prior to the determination of the planning application illustrates that the time was well spent given that it resolved a reason for refusal. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.
9. Ground 9 relates to the first planning application where the Appellant considers that unreasonable behaviour has resulted from the time needed to liaise with the Council when the Council sought that the first planning application be withdrawn. As mentioned above, in accordance with the NPPG the first planning application is not eligible for an award of costs under this appeal.
10. Ground 10 relates to correspondence with the Council where the Council sought to refuse the application prior to receiving comments back from the Highways Officer. Whilst it is good practice for a Council to seek amendments or wait for responses from internal and external parties to resolve matters that are outstanding, they are under no legal obligation to seek resolution. The only legal obligation the Council are under is to make a decision on a planning application based upon the

information they have in front of them which they felt that there were sufficient grounds to refuse the application. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.

11. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated in this costs application. For this reason, and having regard to all other matters raised, an award for costs in both appeals is therefore not justified.

J Somers

INSPECTOR