



Costs Decision

Site visit made on 17 December 2024

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2025

Costs application in relation to Appeal Ref: APP/T0355/W/24/3339410 Land between Green View, Holyport Street and Glenside, The Green, Holyport Road, Holyport, Maidenhead SL6 2JR

- 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 N Burgess for a full award of costs against the Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of planning permission for the erection of a pair of semi-detached dwellinghouses and associated parking and landscaping.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (the Guidance) 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 Guidance advises that awards may be procedural relating to the appeal process, or substantive relating to the planning merits of the appeal. All parties are expected to behave reasonably throughout the planning process, and costs can only be awarded in relation to unnecessary or wasted expense at the appeal. The Guidance makes it clear that costs cannot be claimed for the period during the determination of the planning application, although behaviour of the parties at this time can be taken into account.
4. The application for a full award of costs and the response of the Council have been made in writing and will not be repeated here in any detail. The appellant considers the Council prevented development that should have been permitted, provided vague, generalised and inaccurate assertions unsupported by objective analysis, acted contrary to and did not follow established case law, and failed to determine similar cases in a similar manner.
5. The appeal decision explains the substantive reasons for dismissing the appeal. In addition to providing a statement of case, the Council also relied on the officer report to provide evidence and explanation as to why the original application was refused. The reasons for refusal were clear and precise, being based upon the requirements of the development plan and national policy that were current at the time. The Council's evidence identified and clearly explained the nature of the harms. This included a two-step approach to

determine why the scheme did not constitute limited infilling, as well as making a detailed and thorough assessment of the size of the building.

6. Matters of agreement between the main parties were acknowledged, such as the scheme being within the village, and consideration was made of the previous appeal (ref: APP/T0355/W/22/3298401). The Council has stated that green belt matters were dealt with under the two-step approach identified by the appellant's barrister and as undertaken in the previous appeal. Neither the refusal of the original application nor the appeal evidence provided by the Council was vague, generalised, inaccurate, or unsupported.
7. The consistency of decision making and its importance for public confidence in the development control system is recognised in law (North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137 per Mann LJ). In addition to explaining why the scheme would harm the green belt, the Council has also explained why the other cases cited by the appellant were different. The terms limited and infilling are not defined within the National Planning Policy Framework and essentially these matters are a question of the facts of a case and planning judgement. Such judgements include the nature and size of the development and how it relates to its context. Given this, it does not follow that other permissions in different locations with their own characteristics and contexts pre-determines the approval of an appeal.
8. The consideration of applications involves matters of judgement that are at times finely balanced based on complex evidence. In this case the scheme raises several considerations, and the Council gave a different weight to the issues than the appellant. This was not unreasonable of the Council, and it was not the case that development that should have been permitted has been delayed. Consequently, the decision to submit the appeal would have been one for the appellant to make.
9. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. Accordingly, the application for an award of costs is refused.

J J Evans

INSPECTOR