



Costs Decision

Site visit made on 14 January 2025

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Costs application in relation to Appeal Ref: APP/J0405/W/24/3345525

Three Corners Piece, Granborough Road, North Marston, BUCKS, MK18 3PP

- 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 S and Mrs G Loft for a full award of costs against Buckinghamshire Council - North Area (Aylesbury).
 - The appeal was against the refusal of planning permission for the demolition of all existing buildings and erection of a replacement 3x bedroom dwelling and outbuilding providing residential car port and agricultural store.
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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 appellants' cost application is on three main grounds which I will consider in the same order.
4. Regarding the ecology issue, a preliminary ecology appraisal was submitted with the planning application and this was considered by the Council's ecologist who recommended conditions based on the appraisal's recommendations. Notwithstanding this, the case officer decided that as there had not been a measurable approach to securing a 10% biodiversity nett gain, this justified the imposition of a specific reason for refusal. This approach accorded with the wording of NMNP Policy NE2, part of the development plan, which the case officer had a duty to have regard to. Deciding to impose this reason for refusal on an aspect that did not accord with the development plan was a professional judgement which the case officer was entitled to make on the circumstances of the case. The fact that I reached a different conclusion does not mean that the planning official acted unreasonably in this regard.
5. In respect of the effect on trees the application was accompanied by a tree protection plan but this is not the same as an accurate tree survey. Such information could have been requested and received during the course of the application but given the Council's objection to the size and scale of the replacement dwelling, there was an objection in principle and so further tree survey details were not sought at the application stage. On balance, I find that this does not constitute unreasonable behaviour.

6. The assessment of whether a replacement dwelling is 'significantly greater' than the existing one under policy H4 involves a professional judgement especially as the policy itself does not set out on what basis the analysis should be undertaken. Different calculations of the existing and proposed dwellings were arrived at by the Council and the appellant in terms of footprint, floor area and volume and such calculations can have reasonable tolerances. Moreover, the appellants appeal statement accepts that some of the figures put forward in the original submissions were incorrect.
7. There is some interpretation to be made on the application of the wording in the reasoned justification that the term 'dwelling' does not include any detached garage or domestic outbuilding, However the policy itself does not specifically say that any attached building should be part of the calculation. Therefore a professional judgement is involved on this aspect. The Council did appear to recognise the size of additions that could be added under the Certificates of lawfulness already issued. Overall I am satisfied that the Council's assertions of the comparative sizes of the existing and proposed dwellings were a reasonable calculation based on the evidence before the Council.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

David Murray

INSPECTOR