



Costs Decision

Site visit made on 8 January 2025

by **Sarah Manchester BSc MSc PhD MEnvSc**

an Inspector appointed by the Secretary of State

Decision date: 17th February 2025

Costs application in relation to Appeal Ref: APP/J0405/D/24/3340577

51B High Street, Whitchurch, Aylesbury, Buckinghamshire HP22 4JA

- 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 Alec White for a full award of costs against Buckinghamshire Council - North Area (Aylesbury).
 - The appeal was against the refusal of the Council to grant planning permission for demolition of existing garage. Erection of additional first floor and rear lower ground extensions.
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Decision

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

Reasons

2. Parties in planning appeals are normally expected to meet their own expenses. However, the Planning Practice Guidance (the 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. In this case, the applicant is seeking to recover the full costs incurred in the appeal relating to: time spent preparing for the appeal and consultants' fees; attendance at a hearing or inquiry, if applicable; and time wasted due to the Council's failure to attend a site meeting. Costs associated with a hearing or inquiry are not relevant because the appeal was dealt with by written representations.
4. The PPG sets out examples of the types of unreasonable behaviour that may place the local planning authority at risk of an award of costs. These include preventing or delaying development which should clearly be permitted, and refusing to enter into pre-application discussions when a more helpful approach could have avoided the appeal or narrowed the issues to reduce the expenses in the appeal. In this regard, the National Planning Policy Framework (the Framework) advises Councils to approach decisions in a positive and creative way and to work proactively to secure sustainable development. It also encourages pre-application engagement, which has significant potential to improve the planning application system for all parties.
5. The evidence with the appeal suggests that the applicant sought pre-application advice in December 2023 and tried several times to arrange a site meeting. However, the planning application was made in July 2023 and it was refused on 21 December 2023. Therefore, while the applicant attempted to engage with the Council during the processing of the application, there is little evidence that the Council unreasonably failed to engage in pre-application discussions.

6. The Council acknowledges that it declined to attend a site meeting. However, it was entitled to determine the application based on the submitted plans and it was under no obligation to meet during the processing of the application. It is pertinent that the Council considers that its concerns could not be overcome by minor scheme amendments or through the imposition of planning conditions. It was not unreasonable of the Council to refuse to enter into discussions that had no reasonable prospect of securing an acceptable form of development.
7. The applicant disagrees with the Council's assessment of the scheme and its decision and he exercised his right to appeal in this regard. However, as can be seen from my appeal decision, I also found harm and conflict with the development plan and the Framework and I dismissed the appeal accordingly. As the appeal could not therefore have been avoided, the Council did not unreasonably withhold permission, taking into account the development plan and national policy.
8. The Council's decision would have been a disappointment to the applicant and he has incurred costs in the appeal, which he may consider were unnecessary or wasted expense because the appeal was dismissed. However, even if the Council had behaved unreasonably, it did not prevent or delay development that should clearly have been permitted.

Conclusion

9. Therefore, I find that with reference to the PPG, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. Consequently, an award of costs is not justified in this case and the application is refused.

Sarah Manchester

INSPECTOR