



Costs Decision

Site visit made on 27 February 2025

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 April 2025

Costs application in relation to Appeal Ref: APP/K0425/D/24/3349792

2 The Stables, Downley Common, Downley, Buckinghamshire HP13 5YN

- 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 Buckinghamshire Council (Wycombe) for a full award of costs against Mrs V Kelly.
- The appeal was against the refusal of planning permission for erection of a car port with green roof.

Decision

1. The application for 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 Council consider that the appellant behaved unreasonably on the basis that the appeal had no reasonable prospect of succeeding, and that insufficient supporting evidence was submitted with the appeal. The PPG gives examples of types of behaviour that may give rise to an award against an appellant, which includes *'where the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate a decision should be made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence'*. It also includes where *'the appeal follows a recent appeal decision in respect of the same, or a very similar, development... where the Secretary of State or an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period'*. Both these circumstances are relevant here.
4. In respect of the Green Belt issue, the appellant's appeal statement did not address the breaches of the development plan policy DM43, nor the relevant provisions in the National Planning Policy Framework (the Framework) relating to extensions in the Green Belt. Those policy considerations had been set out in the Council's officer report and in the earlier appeal decisions relating to additions to the site¹. It is therefore not clear why a decision should have been reached which was different to that of the earlier Inspectors, in particular that Inspector which considered a detached garage. Having regard to the PPG, I consider this amounted to unreasonable behaviour by the appellant.

¹ APP/K0425/D/21/3274150 (7 December 2021) and APP/K0425/D/22/3307290 (2 October 2023)

5. In respect of the other issues relating to the effects of the proposal on the landscape character and Conservation Area, the proposal was different to the earlier schemes, and accordingly would have had different effects. As such it is not necessarily the case that the scheme would have been unacceptable in these respects.
6. While it is not clear why a different conclusion should have been reached in respect of Green Belt harm, given the differences in the schemes I do not consider that the appeal had no prospect of success, or that the appeal should necessarily have been avoided altogether. As such the Council did not incur necessary or wasted expense in defending the appeal.

Conclusion

7. Accordingly, and in conclusion, both parts of the test for an award of costs as set out in the PPG have not been demonstrated, and the application for costs is refused.

C Shearing

INSPECTOR