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## Costs Decision

Site visit made on 16 June 2025

by **L Fern BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20<sup>th</sup> August 2025

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### **Costs application in relation to Appeal Ref: APP/Y0435/W/25/3361062 The Orchard, East Street, Olney, Milton Keynes MK46 4DW**

- 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 James Peter of C & DP for a full award of costs against Milton Keynes Council.
  - The appeal was against the refusal of planning permission for demolition of existing dwelling house and outbuildings, and erection of a replacement two storey dwelling house including linked garaging and all enabling works.
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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. This application relies on the case that the Council acted unreasonably in the following respects:
  - The behaviour of the Council in failing to communicate effectively and work proactively with the appellant to resolve concerns regarding the existing use of the site and its status as residential curtilage, and design, which were raised only immediately prior to determination of the planning application.
  - Failure of the Council to have regard to the advice from statutory consultees.
  - Inconsistencies between the Council's officer report and the decision notice, demonstrating a lack of understanding of the site and its context.
  - The second reason for refusal being based on vague and generalised reasoning, a lack of objective analysis and inaccurate assertions.
  - General failure of the Council's planning service throughout numerous pre-application requests and planning applications to work proactively with the appellant.
4. The procedural matters relate largely to the behaviour of the Council during consideration of the planning application and prior, rather than during the appeal process. The PPG makes it clear that costs cannot be claimed for the period during the determination of the planning application, but that all parties are expected to

behave reasonably throughout the planning process. However, actions at the time of the planning application can be considered in my decision of whether costs should be awarded.

5. Whilst I appreciate that a lack of communication during the application process may have caused frustration, there is no substantiated evidence before me to demonstrate that the Council's officer failed to engage sufficiently with the applicant. Council's have a process of senior management review prior to the issuing of decision notices, which seeks quality assurance. In this case, amendments to the initial recommendation were required which led to the refusal of planning permission within the prescribed determination timescales. Furthermore, parties are not obliged to enact or agree to extended determination timescales, and the Council chose not to in this case.
6. Despite my appeal decision coming to an alternative conclusion, design is a consideration that is particularly subjective in nature and based on planning judgement, and it is noted that design concerns were identified in the Council's pre-application enquiry feedback. The Council is entitled to form a contrary view to statutory consultees, with appropriate justification, which is considered to have been provided within the officer report and the subsequent appeal statement, despite there being some inconsistencies. As an Inspector, I was able to understand the justification put forward by the Council in this regard. Furthermore, a lack of objection from statutory consultees with regards to design does not equate to a lack of harm.
7. Whilst the first reason fell away due to being dealt with via a recent alternative planning application, there is no guarantee that the outcome of the planning application would have been different should the Council have notified the appellant sooner of their concerns. Therefore, an appeal may have been an inevitable outcome.
8. The general perceived failure of the Council's planning service prior to the submission of the subject planning application is not a matter for my deliberation under this costs application.

### **Conclusion**

9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Therefore, the application for an award of costs is refused.

*L Fern*

INSPECTOR