The Planning Inspectorate

Costs Decision

Hearing held on 29 September 2016

Site visit made on 29 September 2016

by Claire Victory BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 January 2017

Costs application in relation to Appeal Ref: APP/P0240/W/16/3154544 High Gables Farm, Clophill Road, Maulden, Bedfordshire MK45 2AX

- 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 Simon Lowe for a full award of costs against Central Bedfordshire Council.
- The hearing was in connection with an appeal against the refusal of the Council to grant planning permission for a single storey residential dwelling for retirement purposes on the site of a former agricultural building.

Decision

1. The application for costs is refused.

The submissions for Mr Lowe

2. Mr Lowe made an application for costs at the Hearing, on both procedural and substantive grounds. Firstly Mr Lowe has provided emails from the planning officer sent prior to the determination of the planning application which indicated support for the scheme, and referred to the site as previously developed land. However, subsequent correspondence referred to an earlier appeal decision on the site and that the officer now considered the proposal was not acceptable. The stance on whether the site was previously developed also changed.

3. Secondly, the reason for refusal stated that the proposal would be out of character with the pattern of residential development in the locality, but the appellant asserts that the Council’s case broadened out at the Hearing to include the impact on the rural gap between the two parts of Maulden village when this did not form part of the reasons for refusal.

The response by Central Bedfordshire Council

4. The Council avers that officer level advice is not binding, and the Council are the final arbiter of the decision. It considers that areas of countryside within a village constitute part of the pattern of residential development, and the spatial interaction between houses and surrounding countryside reflect the morphology of place. As such the assessment of the impact of the development on the open space between the two parts of the village is a valid consideration.

Reasons

5. The Planning Practice Guidance[1] states that although costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, events before an appeal can be taken into consideration in determining a costs application. In this instance an initial positive view on the planning application was given by a planning officer, prior to the formal decision, and the Council has explained that the initial view was given prior to the case officer being aware of information about previous planning appeals. I appreciate that the change in the Council's stance would have been frustrating for the appellant, but the original view was an informal one, and made without prejudice to the Council's formal determination of the application. Consequently it was not unreasonable to take the site planning history into account and in making its formal decision and reach a conclusion contrary to its initial comments.

6. On the second point, the Council's reason for refusal does not explicitly refer to the gap between the two village envelopes but clearly states that the site is situated outside of these. It is concerned with the impact of the proposal on the existing residential development pattern. Ribbon development along main roads and the physical separation of the two built up areas with open land are two distinctive characteristics of the village, and so the impact of the development on this character is a valid consideration. Although in the event I have come to a contrary view to the Council on the merits of the appeal proposal, I consider it was reasonable for the Council to comment on the impact of the development with reference to the open land adjacent to the site.

7. For the above reasons I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in paragraphs 47 and 49 of the Guidance, has not been demonstrated, and an award of costs is not justified.

Claire Victory

INSPECTOR

[1] ID 16-033-20140306