

Costs Decision

Site visit made on 4 January 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 26th January 2017

Costs application in relation to Appeal Ref: APP/P0240/W/16/3159860 Rawlings Court, Bedford Street, Woburn MK17 9QZ

- 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 M Jones for a partial award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for the erection of 1 dwelling and alteration to existing wall.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The national Planning Practice Guidance (PPG) advises in paragraphs 29 and 30 that, irrespective of the outcome of the appeal, costs may only 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 applicant submits that the Council has acted unreasonably with regards to paragraph 49 of the PPG and the substance of the matter on three grounds.
 4. Firstly, the applicant contends that the Council prevented or delayed development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations. As I have found that the Council were correct to refuse permission on the grounds of harm to Green Belt and Woburn Conservation Area, I cannot agree with the applicant that the Council prevented or delayed development. Thus, no unreasonable behaviour has occurred on this ground.
 5. Secondly, the applicant contends that the Council refused planning permission on a planning ground capable of being dealt with by conditions. It will be seen from my appeal decision that I consider sufficient information to have been submitted with the application, and that details regarding materials could have been addressed through an appropriately worded condition. However, while I have disagreed with the Council on this point, they are entitled to seek further evidence to help determine the effect of development on the significance of heritage assets. Furthermore, they were correct to refuse permission on the grounds of harm to the conservation area. The applicant would have had to address the conservation area reason for refusal regardless of the issue of sufficient information. Therefore, I find that no unreasonable behaviour has occurred on this ground which led to unnecessary expense in the appeal process.
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6. Finally, the applicant contends that the Council acted contrary to, or did not follow, well-established case law. This relates to the Court of Appeal judgement¹ where the settlement boundary lines in the development plan are material considerations, but are not necessarily determinative in terms of whether a site is within a village or not. I agree with the applicant that the delegated officer report only considers the Green Belt Infill Boundary for Woburn when deciding whether or not the proposal representing limited infilling in villages. The officer's site notes do not indicate that they considered site specific circumstances in terms of whether or not the site lay within the village, and there is no evidence that they considered the *Wood* judgement at the application stage. This was unreasonable behaviour in terms of not following well-established case law.
7. However, while this led to the applicant addressing the matter at some length in their statement of case, this was virtually a repeat of material submitted within the planning statement for the original planning application. Furthermore, Counsel advice on whether a proposal represents limited infilling in a village appears to have been obtained in June 2016 before the application was submitted. Therefore, I have no evidence that the Council's unreasonable behaviour on this ground led to the applicant incurring unnecessary or wasted expense in the appeal process.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Tom Gilbert-Wooldridge

INSPECTOR

¹ *Julian Wood v SSCLG and Gravesham Borough Council* [2015] EWCA Civ 195