

Costs Decision

Site visit made on 25 January 2017

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 8th February 2017

Costs application in relation to Appeal Ref: APP/P0240/W/16/3160704 Duck End Farm, 43 Flitwick Road, Maulden MK45 2BJ

- 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 Darren Gill, Wrest Developments Ltd for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for the demolition of existing agricultural buildings and erection of a one and a half storey and two storey development of 8 number 1 bedroom flats. External works of hard landscaping, access drive, soft landscaping, fences and walls. Widening of existing crossover for parking.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 PPG indicates local planning authorities are at risk of an award being made against them if they are found to have 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. They are also at risk if they have made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis or if they fail to substantiate each reason for refusal on appeal.
 4. The applicant's main concerns relate to the fact that Council members chose not to follow officer recommendations and, as a result, have not provided a substantive case to justify their conclusions.
 5. Pre-application advice is generally offered without prejudice to any final decision and members are entitled to not accept the professional advice of officers provided a planning case can be made for the contrary view. The reason for refusal relates to the perceived impact of the development on the character and appearance of the area. In particular, the Council were concerned about what they considered to be the excessive scale of the development and the site coverage by parking.
 6. Issues such as these are generally matters of planning judgement and, while the Council's evidence is brief, it adequately explains what the key areas of concern were and the reasons why permission was refused. Brevity is not an
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indicator of unreasonable behaviour and, in this case, I am satisfied I was provided with sufficient evidence with which to give full and proper consideration to the appeal.

7. The applicant has suggested that it is unreasonable for the Council to have considered the change in scale of the buildings to be harmful. A change to the character of a site should not automatically be considered harmful. However, in my view, this argument falls within the consideration of the planning merits of the development. I do not think it is evidence of unreasonable behaviour for the Council to have concluded, in their judgement of this case, that the resulting change in the nature of the site would be harmful to the character and appearance of the area.
8. The applicant has suggested the Council did not refer to a more recent permission on the site. They argue that the Council have been inconsistent in their approach to considering applications on the site. The Council did make me aware of the permission granted, but they did not provide a detailed analysis of this proposal. Nonetheless, while I gave weight to this permission in relation to the effect of the development on the street scene, I also recognise there are material differences between the two proposals. The permitted scheme is for fewer dwellings and consists of a reduced amount of built development across the site. It would appear that the permitted scheme addressed the concerns raised with the appeal proposal. Thus, I do not consider the granting of permission of that proposal is evidence of unreasonable or inconsistent behaviour on the part of the Council.
9. Therefore, while I did not agree with the Council's conclusions, I do not consider they acted unreasonably in preventing or delaying development that should clearly have been permitted or have relied on vague, generalised assertions. I also consider that they have substantiated the reasons for refusal.

Conclusion

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

S J Lee

INSPECTOR