
Costs Decision

Site visit made on 27 August 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2019

Costs application in relation to Appeal Ref: APP/P0240/W/19/3230716 Land north of Tythe Barn, Wood End, Tingrith, Bedfordshire MK17 9ER

- 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 Ms Radford for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for the construction of a new dwelling following the demolition of existing stables and storage sheds.
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Decision

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

Reasons

2. Planning Practice Guidance advises 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 expense in the appeal process.
3. The applicant asserts that the Council acted unreasonably in that they made vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis, and acted contrary to well-established case-law and therefore, prevented development which should clearly be permitted having regard to development plan and national policies. In addition, she asserts that there is a lack of consistency in the Council's decision making.
4. The applicant considers that the Council failed to compare the proposal to the existing development in terms of its impact on the openness of the Green Belt, and therefore, did not properly apply paragraph 145 g) of the Framework. However, the planning officer delegated report clearly sets out the wording of 145 g) of the Framework. It goes on to observe the relationship of the proposed dwelling with the boundary and its visibility from the road and footpaths. It further stated, "*Although only indicative, the new dwelling would have a smaller footprint than the existing structures.*" Therefore, the evidence points to the Council considering the impact of the appeal proposal in comparison to the existing buildings on the site.
5. It further follows that, although the Council ultimately came to a different judgement, the application of paragraph 145 g) was reasonably consistent with the case at Longview¹ insofar as it involved a comparison of the impact of the

¹ Reference CB/19/00842/FULL dated 11 June 2019

proposal with the respective existing buildings. The conclusions found in each case reflected the differing circumstances. However, I accept that the delegated officer report for the Longview case does not clearly explain how the proposal relates to paragraph 79 of the Framework or the policies in the development plan that establish settlement envelopes. Nevertheless, this does not negate the reasoning set out in the planning officer delegated report in relation to the appeal proposal.

6. Moreover, the Council considered that by comparison with the existing development, the lighting, paraphernalia and activity associated with the proposed dwelling would have a greater impact. Taking into account the level of information provided with the application, its outline nature and the scale of the proposal, the planning judgements made by the Council were reasonably specific to substantiate their case.
7. The applicant maintains that the Council wrongly claimed the access would cause danger and inconvenience to road users. The Council did not dispute that the existing access was lawful but considered that it failed to achieve the visibility splay that accorded with the advice given by the Highway Authority. The central question then, was whether the proposal would intensify its use such that it resulted in harm to highway safety. This was primarily a question of judgement. Whilst I did not agree with the Council's judgement on this issue, based on the limited evidence provided, I do not consider they acted unreasonably in finding as they did.
8. Similarly, the Council referred to relevant caselaw and national policy², cited by both parties in advance of their respective positions. The applicability of the caselaw and National Planning Policy Framework raised questions regarding whether the appeal site would be isolated and the weight to be given to the re-use of previously developed land. These matters required the exercise of judgement, and an overall planning balance was adequately set out in the planning officer delegated report.
9. I appreciate that the applicants disagree with the planning judgements exercised by the Council, and the weight given to specific factors. However, the apportionment of weight to respective material considerations is a matter for the decision maker. It does not necessarily point to unreasonable behaviour but rather indicates a difference of opinion as to the likely impact and acceptability of the proposal. As will be seen from my decision, based on its merits, I have found that the Council had some reasonable concerns about the impact of the proposed development which justified its decision.
10. The appeal provided an opportunity to test the planning judgement made by the Council and the appellant has not been put to unnecessary or wasted expense in doing so.

Conclusion

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

Helen O'Connor Inspector

² Planning Officer Delegated Report, page 6