



Costs Decision

Site visit made on 2 July 2019

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th September 2019

Costs application in relation to Appeal Ref: APP/N0410/W/19/3222276 Fawley, Grenfell Road, Beaconsfield HP9 2BP

- 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 Dr & Mrs James and Victoria Sumner for a full award of costs against South Bucks District Council.
 - The appeal was against the refusal of planning permission for a replacement dwelling house.
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Decision

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

Reasons

2. Paragraph 16-030-20140306 of the Planning Practice Guidance (the PPG) 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 or wasted expense in the appeal process.
3. Paragraph 16-049-20140306 of the PPG states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. Paragraph 16-050-20140306 advises that where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policies, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for the unreasonable refusal of an application.
5. The costs application sets out a number of reasons whereby it is considered that the Council acted unreasonably. It is contended that following the submission of information to address heritage concerns, the development should have been considered acceptable, and is in accordance with the development plan and other materials considerations. Consequently, the appellants believe the Council's reason for refusal sets out inaccurate assertions about the impact of the proposal.

6. During and immediately following the application process, it appears that the Council did not produce all the information sought by the appellants in respect of the Council's assessment of the impacts upon the setting of heritage assets. However, I do not agree that the reason for refusal is based upon inaccurate assertions, because as has been set out in my accompanying appeal decision, the proposed development is contrary Policies EP3 and H9 of the South Bucks Local Plan (Adopted 1999, Consolidated September 2007 and February 2011) and Policy CP8 of the South Bucks Core Strategy Development Plan Document (2011). There would also be harm to the significance of heritage assets from a development within their setting.
7. I note the appellants' views in respect of the Council's failure to provide specialist heritage comments to the appellant during the course of determining planning application ref. nos. 18/00250/FUL and PL/18/2547/FA, as set out in their costs application. However, I do not consider that this has resulted in wasted or unnecessary expense to the appellants because they would have had to produce such evidence as part of the application and/or appeal in any event.
8. The appellants consider that the Council has erred in law by not acting in a consistent manner, as it is asserted that they have approved a number of other very similar developments in the Beaconsfield area. Having regard to the information before me for the reasons set out in my accompanying appeal decision, I do not consider that the Council has been inconsistent or behaved unreasonably in reaching its decision. Therefore, it has not caused the appellant to incur unnecessary or wasted expense in the appeal process due to inconsistent decision making.
9. The appellants are claiming costs due to a lack of engagement by the Council, but it appears that the appellant did not seek formalised pre-application discussions before submitting the application. I would have expected this process to have resulted in informed advice by the Council which would have made clear its concerns, including in relation to heritage assets.
10. I do not consider it unreasonable or to have resulted in the appellant incurring unnecessary costs because in paragraphs 6.1 – 6.3 the Council has not specified paragraphs of the National Planning Policy Framework (the Framework) or the criteria of its development plan policies most relevant to its reason for refusal. An appellant would be expected to have familiarised themselves with these policies in submitting a planning application of the nature proposed.
11. Whilst additional policies appear to have been listed at paragraph 6.1 of the Council's evidence, they do not form substantive justification for the application being refused, which is set out in the reason for refusal. Accordingly, I expect the costs likely to have been incurred by the appellants in referencing any relevant matters raised are likely to have been negligible.
12. Whilst the Council has not addressed the appellant's Statement of Common Ground (SoCG) in their evidence, this is not considered unreasonable given that the Council did not sign the SoCG, and this appeal has been determined by the Written Representations procedure.
13. I have found that the proposal is contrary to the policies of the development plan and the National Planning Policy Framework, and there are no material

considerations that indicate that planning permission should have been granted.

Conclusion

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

Dan Szymanski

INSPECTOR