



Costs Decision

Site visit made on 3 December 2019

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th December 2019

Costs application in relation to Appeal Ref: APP/P0240/W/19/3235690 Chalkcroft Nursery, Asterby, The Ridgeway, Moggerhanger, MK44 3PH

- 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 Mrs Eva Aldridge for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for a replacement dwelling house.
-

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 grounds upon which the appellant considered that the Council acted unreasonably. It is contended that the Council has not justified its reason for refusal in respect of the harm to the character and appearance of the area, the visibility of the appeal site, or by reference to other dwellings approved in the local area.
6. I note the Council's concerns about the harm that would arise to the character and appearance was set out in the Council's report, the reason for refusal and its appeal statement by reference to the increased scale and visibility of the

development. Although the appellant disagrees with the Council in respect of visibility from the south west, the appellant's evidence does not persuade me the Council has been unreasonable in coming to its overall decision, to refuse planning permission on the grounds of the adverse impact upon the character and appearance of the area.

7. The appellant considers that the Council not taken decisions in a consistent manner and it is asserted that they have approved a number of other similar developments in the area. A number of examples of developments have been provided by the appellant. However, the details of many are limited and do not allow a reasonable comparison to be made. The others do not appear to represent a direct comparison to the appeal proposal such as the Chalton Stables decision cited by the appellant. I recognise there is a need for consistent decision making. However, it is also a well-established principle that each proposal should be considered on its own merits. This includes having regard to considerations that are specific to a particular site or development.
8. The weight, if any, which should be given to a particular consideration is a matter for the decision maker's discretion. The weight the Council has given to the fall-back position was adequately reasoned, and I have come to a similar view based upon the evidence before me. The Council has not behaved unreasonably or irrationally in this regard.
9. The appellant's land allows informal access to the Blunham Road, however it is not located within the appeal site and no detailed proposals accompanied the planning application or the appeal. Even taking the use of the route into account has not led me to a different overall conclusion in respect of access to goods and services. Based upon the evidence submitted by the appellant in respect of routes and distances, the Council has taken account of the accessibility of goods and services from the appeal site by cycling. It has reached a reasonable and rational overall conclusion on accessibility.
10. The appellant alleges the Council failed to consider the development would support local services and suggests that the Council considered future occupiers would travel further afield to use the same facilities that were available in nearby villages. The Council's consideration of the level of support for local services is brief, however, I see no evidence that it concluded that future occupiers would travel further afield to use the same facilities that were available in nearby villages.
11. I have considered the accessibility of local services and facilities and the support to local services and facilities, in reaching my overall conclusions. Based upon the evidence before me, I find this level of support from a single dwelling is likely to be small. The Council has not caused the appellant to incur unnecessary or wasted expense in this regard.
12. Regarding concerns about the weight to be attached to Policy DM4, based on the submitted evidence there has clearly been a variation in approach to this matter. In my view, there was no clear-cut decisive piece of evidence that shows the Council was wrong about the weight that it attached to the policy. Nevertheless, the appellant will note in my main decision I have explored that even if I was to accept that the policy is inconsistent with the Framework and thus should be considered to be out of date, the application of the tilted balance in the Framework still did not lead to a favourable outcome.

Conclusion

13. 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