
Costs Decisions

Hearing Held on 18 September 2019

Site visit made on 18 September 2019

by S D Castle BSC(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st June 2020

Costs application in relation to Appeal Ref: APP/P0240/W/19/3229914 Brodie Stables, Off The Rye, Easton Bray LU6 2BQ

- 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 Sean Banks and Tanya Wilson for a partial award of costs against Central Bedfordshire Council.
 - The hearing was in connection with an appeal against the refusal of Central Bedfordshire Council to grant planning permission for retention of existing timber building as a dwellinghouse for an equestrian worker employed at the site (revised application following CB/18/02314/FULL).
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Decision

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

The submissions for Sean Banks and Tanya Wilson

2. The application for a partial award of costs was made orally on the day of the hearing. The application is based on the claim that the Council failed to make an assessment of the proposals against paragraph 79 of the National Planning Policy Framework (the Framework). The Council failed to assess whether there was an essential need for a rural worker to live permanently at or near their place of work in the countryside. The Council gave no consideration to the availability or otherwise of suitable alternative accommodation in the local area. The failure to consider these matters and to accord them appropriate weight in favour of the proposal resulted in the refusal of planning permission and an unnecessary appeal.

The response by Central Bedfordshire Council

3. The Council's response to the claim for costs was made orally on the day of the hearing following a short adjournment requested by the Council and agreed by the applicants.
4. The Council argued that Paragraph 79 of the Framework is not relevant to the assessment of the proposal. Even if paragraph 79 were relevant, the Council do not consider it to represent very special circumstances.
5. The availability of suitable alternative accommodation in the area relates to personal circumstances. Personal circumstances should not be taken into account except in exceptional circumstances which is not the case in this instance.

Reasons

6. The Planning Practice Guidance (PPG)¹ advises that irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expenses in the appeal process. It sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. The PPG is also clear that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
7. The PPG advises that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
8. It is not unusual for some tension to be found between different policies within a development plan and, also, within national planning policies. The Council's focus on applying Green Belt policy and assertion that paragraph 79 of the Framework is not relevant is applicable to the assessment of whether a development is inappropriate, but not to a wider assessment of other considerations that may amount to very special circumstances. The two aspects of policy are not, therefore, mutually exclusive. It is the role of the decision maker to balance the weight to be given to the various material considerations. Without a proper assessment of the rural enterprise, including whether there is an essential need for a rural worker to live permanently at or near the site and what suitable alternative accommodation in the local area is available, the Council has failed to demonstrate a reasonable exercise of planning judgement in reaching its decision.
9. However, as set out above, an award of costs is only made where unreasonable behaviour has led to unnecessary or wasted expense in the appeal process. Whilst I have agreed with the applicants regarding the proposal according with paragraph 79 of the Framework, the relative weight afforded to the various material considerations is a matter of planning judgement and, overall, I have agreed with the Council that permission should be withheld.
10. Consequently, whilst I have found the Council's assessment of the merits of the proposal incomplete, this is not a case where the Council prevented or delayed development which should clearly have been permitted having regard to the development plan, national policy and other material considerations. As such, I am not persuaded that the Council's behaviour has directly caused the appellants to incur unnecessary or wasted expense in the appeal process.

Conclusion

11. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs, partial or full, is not justified in this case.

S D Castle

INSPECTOR

¹ PPG Paragraph: 049 Reference ID: 16-049-20140306 - Revision date: 06 03 2014