



Costs Decision

Site visit made on 9 September 2020

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 03 November 2020

Costs application in relation to Appeal Ref: APP/P0240/W/20/3247471 Erin House, 171 Dunstable Road, Caddington, LU1 4AN

- 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 R Gill for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of the Council to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that parties at planning appeals normally meet their own costs. Costs are normally awarded where one party has behaved unreasonably and that unreasonable behaviour has caused the party applying for costs to incur wasted or unnecessary expenditure in the appeal process.
3. The applicant alleges that he incurred unnecessary expenditure by having to pursue an appeal, as the application to vary the condition should have been granted. This is based on the advice contained in the PPG in the sections relating to appeals and to the use of planning conditions. The applicant also alleges the Council, in its officer's report, does not directly address the appellant's case that the Green Belt is not considered to be an '*exceptional circumstance*' where permitted development rights should be removed.
4. It is clear to me that the Council, in its officer's report, considered the application to vary the condition carefully and in terms of its contribution to maintaining the purposes Green Belt is meant to serve. In particular, in the Green Belt section of the report it refers to the potential for inappropriate development in the Green Belt causing an impact upon its openness, if the ability to construct new buildings on the site is not controlled. In my view therefore the Council considered whether the condition was necessary and reasonable.
5. There is no indication in the officer's report that the Council, as a matter of policy, uses conditions routinely to remove permitted development rights from new developments in the Green Belt. The officer's report, in the Green Belt section, specifically refers to the original planning application. It is clear to me

that the Council was focusing on the application which is the subject of this appeal in its decision and not on a blanket or area-wide removal of permitted development rights.

6. I note that there is a difference between the reason given for the imposition of condition No 12 on planning permission SB/TP/04/1051 and the reason given on the notice refusing planning permission CB/19/03493/VOC. However, the notice refusing planning permission CB/19/03493/VOC is clear, that the principal reason for refusing the application is the site's location in the Green Belt and the potential for inappropriate development to be constructed if condition No 12 was removed. Therefore, the applicant would have been clear what the main concern of the Council was when the decision was made on the appeal application. I do not consider that this difference has led to any unnecessary or wasted expenditure by the applicant in pursuing this appeal.
7. I acknowledge that the applicant has argued that Green Belt is not considered to be an '*exceptional circumstance*' which would warrant the removal of permitted development rights and that this is not considered in the officer's report. However, the officer's report did focus upon the impact of allowing the application on the Green Belt, the purpose it is meant to serve and on its openness. In these circumstances and in view of the merits of this particular case it is appropriate for the Council to base its assessment of the need for the condition on its effect on the Green Belt.
8. I therefore conclude, having regard to all other matters raised, that unreasonable behaviour by the Council leading the applicant to incur wasted or unnecessary expenditure has not been demonstrated, and it follows that an award of costs is not justified.

Peter Mark Sturgess

INSPECTOR