



Costs Decision

Site visit made on 8 September 2020

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 13 November 2020

Costs application in relation to Appeal Ref: APP/N0410/W/20/3252525 1 Amersham Road, Beaconsfield, HP9 2HA

- 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 Monica Knight for a full award of costs against Buckinghamshire - South Bucks Area.
 - The appeal was against the refusal of planning permission for the erection of 1no. detached dwelling house.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may 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. Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal, for example by complying with the requirements and deadlines of the process. Although not an exhaustive list, examples of unreasonable behaviour which may result in an award of costs include introducing fresh and substantial evidence at a late stage necessitating extra expense for preparatory work that would not otherwise have arisen, prolonging the proceedings, and by introducing a new reason for refusal.
4. The Council has introduced a further reason for refusal relating to the effect of the proposal on the integrity of the Burnham Beeches Special Area of Conservation (SAC). The applicant has undertaken additional preparatory work in responding, involving the preparation of a Unliteral Undertaking. However, this request has resulted from the Council's further assessment and research of the evidence produced for the Council's emerging local plan. This research has found that the introduction of additional dwellings within a set radius of the SAC would impact on the integrity of the site, alone or in combination.
5. The emerging local plan has been withdrawn. However, the recreational effects of new residents from increasing housing provision will remain. Therefore, the research and its implications are a material change in circumstance since the Council's decision. Furthermore, Natural England (NE) have been closely involved in this research and justified the position of the Council. In this regard, the view of NE, as a statutory consultee on nature conservation, has provided compelling and cogent reasons to object to the proposal in the

absence of any mitigation. Ultimately, I have agreed with their position in the main decision based on the evidence. Therefore, the Council's position has been justified and reasonable, and the applicant would have needed to address this issue in the appeal in any case.

6. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Although not an exhaustive list, examples, include the failure to produce evidence to substantiate a reason for refusal. In this regard, the Council has quoted the tilted test (Paragraph 11.d) ii. of the National Planning Policy Framework but has not explicitly carried it out in either its officer's report or appeal statement.
7. However, for the reasons indicated in the main appeal decision, there is no requirement to do so. Furthermore, even if such a test was required, the officer's report and Council statement has detailed economic, social and environmental benefits. An example of this is at the end of the officer's report. Taken as a whole, the report and statement demonstrate that the impacts would be significant in detail and thus, how they would demonstrably outweigh the benefits. Therefore, the Council has substantiated its reasons for refusals.
8. In terms of the pre-application dealings between the Council and the applicant, this amounts to advice and is not binding. In any case, this does not directly relate to the appeal proceedings and therefore, the Council's actions have not been unreasonable for these reasons in this respect.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Jonathon Parsons

INSPECTOR