



Costs Decision

Site visit made on 15 September 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2020

Costs application in relation to Appeal Ref: APP/K0235/W/20/3253651 Land at 27 Hookhams Lane, Renhold MK41 0JU

- 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 and Mrs Hendry for a full award of costs against Bedford Borough Council.
 - The appeal was against the refusal of grant subject to conditions of planning permission for demolition of one dwelling and erection of fourteen dwellings.
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Decision

1. The application for an award of costs is allowed, in the terms set out below.

Reasons

2. Irrespective of the outcome of an appeal, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities which includes making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis or by introducing fresh and substantial evidence at a late stage necessitating an adjournment or extra expense for preparatory work that would not otherwise have arisen.
4. The appellant contends that the Council have not provided evidence to substantiate their five year housing supply position; introduced a new issue relating to character and appearance; and made vague and generalised analysis in respect of the effect upon the living conditions of the occupants of No 29 Hookhams Lane.
5. Taking each matter in turn the Council outlined its housing supply position in the '5 Year Supply of Deliverable Housing Sites 2019/2020 – 2023/2024: Update to May 2019' document published in June 2020. Notwithstanding the appellant's argument there is no substantive evidence to refute its findings and therefore I am satisfied that the Council has adequately justified its housing land supply position.
6. The Council alleged harm in respect of character and appearance although their decision notice does not refer to such harm. Based on the evidence before me

the relevant policies against which the application was assessed in respect of character and appearance have a similar theme to Part ix of Policy 7S. In my view it is unreasonable to conclude that the planning assessment regarding character and appearance should significantly shift with the adoption of the new Local Plan given the similarities between the relevant policies. As such I find that the introduction of fresh evidence and a new matter of dispute during the course of the appeal amounts to unreasonable behaviour as set out in the PPG.

7. In respect of the reason for refusal and the effect of the proposed development on the living conditions of nearby occupiers the decision is one which is a matter of planning judgement. Based on the evidence before me the Council has justified its decision rather than making vague, generalised or inaccurate assertions. Furthermore, the decision notice clearly details the reasons for refusal. The reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the Bedford Borough Local Plan and the Bedford Core Strategy and Rural Issues Plan that the proposal would be in conflict with. The Council has substantiated its position at appeal rather than making vague, generalised or inaccurate assertions.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in respect of contesting the effect of the proposed development upon the character and appearance of the area, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Bedford Borough Council shall pay to Mr and Mrs Hendry, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the alleged harm in respect of character and appearance; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Bedford Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

B Thandi

INSPECTOR