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## Costs Decision

Site visit made on 7 December 2021

**by R Sabu BA(Hons) MA BArch PgDip ARB RIBA**

**an Inspector appointed by the Secretary of State**

**Decision date: 16<sup>th</sup> December 2021**

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### **Costs application in relation to Appeal Ref: APP/Y0435/W/21/3279163 65 Newport Road, Hanslope MK19 7ND**

- 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 Barford-Fleming and Francis Jackson Homes for a full award of costs against Milton Keynes Council.
  - The appeal was against the refusal of planning permission for outline planning permission for a residential development of up to nine dwellings (8 no. net new dwellings), access road and associated works including the demolition of the existing dwelling and all ancillary structures at land to the rear of 65 Newport Road.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. It adds that examples of unreasonable behaviour by local planning authorities include:
  - lack of co-operation with the other party or parties;
  - vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; and
  - refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead.
4. I note the evidence regarding the service provided by the Council during the course of the application including change of case officers and indication that the application would be approved. I also acknowledge the issues with staff shortages and staff turnaround. However, while I note the delays that these matters may have caused with regard to the issuing of the decision notice, there is little substantial evidence before me to indicate that these resulted in unnecessary expense during the appeal process.
5. With respect to the Council's comments on the effect on grade 3 agricultural land, the planning officer's report states that the loss of agricultural land was

considered not a reason for refusing planning permission or would result in conflict with the development plan. The Council's appeal statement confirms that this issue did not form a reason for refusal while noting the comments of the landscape officer. Therefore, while the mention of the loss of agricultural land in the Council's appeal statement appears to be somewhat unnecessary, this matter has not resulted in wasted expense during the appeal process.

6. While the Decision Notice contains an error with respect to Policy NH5 of the Plan:MK 2016 – 2031 Adopted March 2019, since the wider evidence refers to Policy NE5, the Applicants, as pointed out in their Appeal Statement, were aware of the correct Policy. As such, even if the Council did behave unreasonably in this respect, no wasted expense was incurred during the appeal process as a result.
7. I note the evidence regarding the proposed mitigation and the scheme's impact on the public footpath and wider views. However, the reason for the refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the development plan that the proposal would be in conflict with, in the view of the Council. These reasons have been adequately substantiated in the Council's Written Statement submitted as part of the appeal.
8. Accordingly, I consider that the Council has not failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The Applicants had to address those concerns and the evidence of third parties in any event.

### **Conclusion**

9. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

*R Sabu*

INSPECTOR