



Costs Decision

Site visit made on 26 October 2021

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Costs application in relation to Appeal Ref: APP/P0240/W/20/3262147 Land North of 34 Woodside Road, Lower Woodside LU1 4DQ

- 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 G Sayers for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for 'Residential development to create 10 x dwellinghouses (100% affordable) with associated hard and soft landscaping'
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG outlines that an award of costs can be made on substantive grounds where a Local planning Authority has prevented or delayed a development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. The applicant alleges that the Council acted unreasonably on this basis. However, I have dismissed the appeal and found it to conflict with the development plan as a whole. I have also concluded that there are no relevant material considerations which indicate that a decision should be made other than in accordance with the development plan. I therefore conclude that the Council did not prevent development that should clearly have been permitted. As such, the Council did not act unreasonably. Notwithstanding this, I have considered the matters raised in the application for costs below.
4. Local Plan (2021) Policy H5 does not apply to sites within the Green Belt, as set out within the decision letter. Nonetheless, the previously saved Local Plan Review (2004) Policy H5, which was adopted at the time planning permission was refused, did not preclude development of such sites within the Green Belt. Therefore, in considering whether the Council acted unreasonably it is relevant to consider the circumstances at the time the decision was made.
5. The Applicant has indicated that the Council failed to take into account the Local Housing Needs Survey (LHNS) submitted in support of the planning application. The evidence before me indicates that initially the Council were

concerned with regard to the applicability of the LHNS, given that it was produced by a third-party in support of a site elsewhere in the District. However, the Council has also subsequently indicated that the Unilateral Undertaking (UU), provided by the applicant, does not clarify the tenure split of affordable housing, which they suggest is a necessary requirement for the proposed rural exceptions scheme. Whilst this may not always be a requirement which is a prerequisite for rural exceptions schemes, I have found that in this case the UU does not sufficiently identify how the specific needs in the LHNS would be met. In any case, I also found that the LHNS can only be afforded minimal weight for the reasons outlined in the decision letter.

6. As such, regardless of whether or not the Council found the LHNS to be material to their initial decision, there is no evidence to indicate that the applicant has been put to any unnecessary expense, given that the application could have reasonably been refused anyway for the same reasons, even if the Council had found the LHNS to be material to their original decision.
7. The Applicant also questions the Council's consideration of matters pertaining to Flood Risk. However, the Council did not act unreasonably in this regard, given that I have found that there would be conflict with the Framework and Development Plan in this regard.
8. There is also an assertion by the Applicant that the Highway Authority strayed beyond their remit in alluding to matters pertaining to the removal of landscaping. However, even if this is the case, there is no substantive evidence to indicate what effect this had on the Council's conclusions or how any unnecessary expense has been occurred as a result. Whilst I have found that there would not be any harm to the character and appearance of the area (beyond Green Belt harm), this is a matter of judgement and the Council was entitled to come to a different conclusion.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

Luke Simpson

INSPECTOR