



Costs Decision

Site visit made on 21 March 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 May 2022

Costs application in relation to Appeal Ref: APP/N0410/W/21/3273174 Land Adjacent to Limewood Gate, Poyle Lane, Burnham SL1 8LE

- 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 Messum for a full award of costs against Buckinghamshire Council - South Area (South Bucks).
 - The appeal was against the refusal of outline planning permission for development of a single detached dwelling.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The planning application, subject to the appeal, was determined by the Council's Planning Committee. The applicant asserts that the Council's planning officer discounted relevant appeal decisions, presented a skewed view on the acceptability of the proposal and therefore misled Members of the Planning Committee. At the Committee meeting, she asserts that the Chair behaved unreasonably in urging members to vote with him on the basis that he was the only member to have visited and viewed the site.
4. The planning officer's report listed the information submitted in support of the planning application. Whilst copies of all of the documents may not have been provided, the officer's report to Committee describes the various evidence and provides a summary of the appeal decisions. I am satisfied that all the relevant material was available to Members for them to make their own decision.
5. In terms of the planning merits of the case, this is a matter of planning judgment based on the circumstances of the site and the proposal. Although other appeal decisions can be a material consideration, they are not determinative as each site will have its own unique context. It is evident from the officer's report and the analysis of the submitted appeal decisions included within this, these had been considered. That assessment was also before Members in making their decision.

6. The parties disputed whether or not the proposal would amount to infill development within a village. Whilst I have found that the scheme would be infill development in a village, that is down to my judgment and does not mean that the Council has behaved unreasonably in reaching a different view.
7. With regards to the meeting itself, from the submissions including the correspondence in response to the applicant's complaint to the Council, there is nothing to suggest that the procedures in terms of public speaking arrangements had been breached and that the opportunity to debate the scheme had been denied, thereby skewing the vote to refuse the application.
8. There is no firm evidence that shows the Council, officers and Members, did not consider the evidence and come to a view on the proposal based on that evidence and, in the case of members, on the discussion at the meeting. Simply reaching an alternative view based on the evidence is not unreasonable behaviour. It therefore follows that, given the decision reached, an appeal could not have been avoided.
9. With regards to the behaviour of the Chair of the Planning committee, it was not unreasonable for the Chair to state his view on the acceptability of the proposal nor for him to draw discussions on this matter to a close given that considerable time had been spent on this, as is indicated in the Council's Stage 1 Complaint response.
10. I note that the applicant has lodged a separate complaint with the Council around the officers' conduct and has advised that, pending the outcome of the complaint against the officers, may lodge a complaint against the Chair of the Committee. I also note that this complaint, has been considered at both Stages 1 and 2 of the Council's complaint procedure, and has not been upheld.
11. Whilst noting that the investigating officers in the Council's complaints process do not assess the merits of a case and whether it has been correctly decided, they have focussed on the procedure insofar as how the case was handled. At both stages, the officer was not found to be at fault. I have no substantive evidence to disagree with the Council's findings in this regard. Therefore, there are no procedural grounds on which I can find that an appeal could have been avoided.
12. The applicant considers that to not award costs would be interpreted as an endorsement of the conduct of the Council's behaviour. However, since I have not found the Council's behaviour to be unreasonable I do not need to consider this matter further.
13. I am therefore satisfied that the Council acted reasonably in refusing the application and the applicant has not incurred unnecessary or wasted expense in the appeal process.

Conclusion

14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Rachael Pipkin

INSPECTOR