

Costs Decision

Site visit made on 25 July 2022

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2022

Costs application in relation to Appeal Ref: APP/N0410/W/22/3290538 16 Caledon Road, Beaconsfield HP9 2BX

- 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 Adam and Rachel Cunliffe for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of planning permission for demolition of the existing dwelling and erection of a new detached house with integral garages, landscaping and new vehicular access.
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Decision

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

Reasons

2. Parties in planning appeals and other planning proceedings normally meet their own expenses, but the Planning Practice Guidance (PPG) 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. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in such unnecessary or wasted expense.
3. The costs application is based on both procedural and substantive grounds – relating to both the process followed and the planning merits of the case. The applicants submit that the Council: (a) added to a reason for refusal, beyond the scope of the resolution by the Council's South Buckinghamshire Area Planning Committee; and (b) refused the application on a ground not supported by development plan or national policies, by using an unsupported measurement for development density.
4. The appeal application was refused by the Committee contrary to the recommendation set out in the officers' report, so that there were no written reasons for refusal in front of the Committee. Unfortunately, the agreed minutes of the meeting do not record the reasons for refusal at all, so do not clarify the matter. A transcript of the committee proceedings supplied by the applicants indicates that the verbal resolution supported by the committee was to refuse permission on the grounds that:
 - i) the proposal distinctly changes the character of the house and sets it out of character with surrounding properties; and

- ii) the application is reducing the number of bedrooms from 4 to 1 and thereby the density of housing in the area which flies in the face of the spirit of the National Planning Policy Framework (the Framework).
- 5. In regard to procedural issues, the PPG states that local planning authorities may be at risk of an award of costs where, amongst other things, they prolong the proceedings by introducing a new reason for refusal.
- 6. This matter relates to the first reason for refusal, the scope of which is not at all clear from the written record. Nevertheless, it is true as stated by the Council that the points included in the reason for refusal on the decision notice were all raised by members of the committee during questions and debate. All the points included are relevant to the character of the house and surrounding properties. These points also relate to development plan and national policies and local guidance, so their inclusion is reasonably justified.
- 7. Furthermore, the decision notice was issued before the appeal was submitted so that the applicants knew its content when making the appeal. This does not appear to me to be a case where the proceedings have been prolonged by introduction of a new reason for refusal. The examples of other procedural issues listed in the PPG do not seem to be relevant here either. Whilst I find that there are shortcomings in the way that the Council dealt with this matter, I do not find it to have acted unreasonably so as to cause unnecessary or wasted expense in the appeal process.
- 8. In regard to the substantive matter, the PPG states that local planning authorities may be at risk of an award of costs where they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
- 9. The second reason for refusal objects to the proposed reduction in the number of bedrooms, stating that the development would therefore fail to make efficient use of land in line with Framework paragraph 125(c). The Council does not cite any development plan policies or supplementary guidance in support of its position. In fact, Core Policy 8 of the Core Strategy specifically uses dwellings per hectare as its measure of density. By this measure, the proposed one for one replacement would not reduce the density of development.
- 10. The Council refers to paragraph 125 of the Framework which makes an undefined reference to avoiding homes being built at low densities. Third parties to the appeal have drawn my attention to guidance in the PPG which refers to 3 potential measurements of density, including bedspaces per hectare. On this basis the Framework policy can be taken to be referring in part to bed spaces in regard to the efficient use of land.
- 11. Therefore, although I find no conflict with development plan policies or local guidance, there is a reasonable case here that the reduction in bedspaces proposed for the site conflicts with the policy set out in Framework paragraph 125. On balance, I find that the Council has not acted unreasonably in this respect, either.
- 12. Although in the main decision I have disagreed with the Council in regard to both reasons for refusal and have allowed the appeal, this does not mean that the Council's actions have necessarily been unreasonable. For the reasons set

out above I conclude that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated.

Les Greenwood

INSPECTOR