



Costs Decision

Site visit made on 25 October 2022

by M Aqbal BA (Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 15th November 2022

Costs application in relation to Appeal Ref: APP/Y0435/W/22/3295512 Western Expansion Area, Area 10-1 - 10-3, Watling Street H3 to H4, Milton Keynes MK5 7FF

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Redlawn Land Limited for a full award of costs against Milton Keynes Council.
 - The appeal was against the refusal to approve details required by a condition of a planning permission for variation of condition 1 (approved plans) attached to application 15/01423/MMA At: Wea Area 10-1 - 10-3 Watling Street H3 To H4 Milton Keynes.
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Decision

1. The application for costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance ('PPG') advises that, irrespective of the outcome of the appeal, costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG states that the circumstances when the behaviour of a local planning authority ('LPA') might lead to an award of costs can either be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal.
4. In summary, the applicant's application for costs is based on the alleged unreasonable behaviour of the LPA and wasted expense, for the alleged failure to determine the application in accordance with officer recommendation and to substantiate the reasoning for overturning the officers' recommendation.
5. The LPAs decision is contrary to the recommendation of the officer report to Development Control Committee, which included a response provided by the Local Highway Authority ('LHA') and their confirmation that the submitted details were acceptable from a technical perspective.
6. Furthermore, the minutes of the Development Control Committee state that: 'The Head of Highways told the Committee that the proposals had been safety audited and therefore the design parameters and design speed were considered acceptable in Highways terms. The Senior Planning Officer reminded the Committee that the layout of the grid road had been approved and that the application was in respect of specific element. In respect of safety, the proposals had been assessed against a Highway Safety Audit. The Senior

Solicitor advised the Committee that the technical advice identified the technical details as being satisfactory, and if there was no other technical advice, the council could be vulnerable for costs in any appeal.'

7. Whilst the LPA has provided a decision which refers to relevant policies of the development plan, this also states that the proposed scheme fails to demonstrate that highway safety considerations are adequately satisfied. However, as part of the appeal, the LPA has failed to substantiate this with any strong technical evidence.
8. Most notably, the LHA as part of the appeal has confirmed that they have nothing further to add to their previous advice and do not intend to provide anything further for the appeal.
9. Accordingly, the assertions about the proposal's impact are generalised, which are unsupported by any objective analysis. Consequently, having regard to Paragraph: 049 Reference ID: 16-049-20140306 of the PPG, this constitute unreasonable behaviour.
10. Given the above circumstances, the only recourse for the applicant was to lodge an appeal. As a result, the applicant has had to incur additional costs of the appeal.

Conclusion

11. I therefore find that unreasonable behaviour on the part of the LPA resulting in unnecessary or wasted expense incurred by the appeal, as indicated in the PPG, has been demonstrated. Accordingly, I conclude that a full award of costs is justified.

Costs Order

12. 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 Milton Keynes Council shall pay to Redlawn Land Limited the costs of the appeal proceedings described in the heading of this decision, and such costs shall be assessed in the Senior Courts Costs Office if not agreed.
13. Redlawn Land Limited is now invited to submit to the Milton Keynes 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.

M Aqbal

INSPECTOR