



Costs Decision

Site visit made on 9 May 2023

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2023

Costs application in relation to Appeal Ref: APP/P0240/W/22/3304642 Land west of Silsoe Road, Maulden MK45 2AX

- 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 J Coleman for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for the Erection of an agricultural building.
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Decision

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

Reasons

2. Paragraphs 16-028-20140306 and 16-030-20140306 of the Planning Practice Guidance (the PPG) advise that, irrespective of the outcome of the appeal, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. Paragraph 16-049-20140306 of the PPG states Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing applications, or by unreasonably defending appeals. Examples of unreasonable behaviour include not determining similar cases in a similar manner, preventing development which should clearly be permitted, and vague or generalised assertions about the impact of a proposal unsupported by objective analysis.
4. The appellant is of the view the Council behaved unreasonably because it refused the application based upon a judgement the appellant had failed to demonstrate a need for the proposal, which is not a requirement of Policies SP7, HQ1 and EE5 of the Central Bedfordshire Local Plan (2021) (CBLP). It is also alleged the Council has been inconsistent in the way it has determined other applications the appellant has provided the details of.
5. I do not necessarily agree with all the Council's reasoning for its application of policy in the way it has set out in its evidence. I share the appellant's view that a perceived absence of need is not demonstrative of harm to character and appearance. Based upon the evidence before me, there is not an explicit requirement to demonstrate an agricultural use and need in association with the land in Policies SP7, HQ1 and EE5 of the CBLP. The Council has also not made it clear where the requirement to have regard to national guidance is set

out in the pre-ambule to SP7 that it has referred to in section 3.3 of its appeal statement. Therefore, it appears need is not a policy test in the development plan policies referred to in the decision notice, but a material consideration.

6. However, the Council explained before issuing its decision that it found the proposal conflicted with CBLP policies for development in the countryside and the effect upon the character and appearance of the area. While the latter issue is a matter of planning judgement, I do not find the Council's overall conclusions in either regard irrational or unreasonable, and for the reasons set out in my decision letter I have found policy conflicts on these grounds. The appellant has also not adequately demonstrated or justified why there is not a conflict with Policy SP7 of the CBLP.
7. Given the conflict it found with its policies, the Council had regard to other material considerations, including the policies of the National Planning Policy Framework (2021) (the Framework). Clarifying whether there is any agricultural need for an agricultural building is necessary to understand whether the proposal gains support from some policies in the Framework (for example paragraph 84). There is also the potential that the need or justification, might be such that a decision maker could take a view that this outweighed the other policy conflicts. Based upon the evidence submitted, I have found such matters do not outweigh the harm. However, I do not conclude the Council behaved unreasonably in seeking to clarify the agricultural need or reaching the decision it did for the reasons set out.
8. While I take the view the Council has not fully explained the reasons why it sought additional evidence from the appellant, the Council raising this issue has had regard to its duties under section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and has taken a positive approach to considering the merits of the application. This is not unreasonable behaviour.
9. The Council provided very brief further reasons for approving the other applications the appellant provided details of. I have carefully considered those proposals and the commentary of both parties. Ultimately based upon its submissions, I cannot conclude the Council has been not inconsistent in the way it applied Policy SP7 or previous countryside policies. However, there are clear reasons why those proposals and their specific circumstances differ from this appeal proposal, for the reasons set out. I have found this appeal proposal clearly conflicts with the policies in the decision notice. Therefore, even if it could be considered the Council not been fully consistent in its determination of some similar applications, there is no substantive failing and the Council cannot be said to have behaved unreasonably resulting in unnecessary or wasted expense in the appeal process.

Conclusion

10. For the reasons set out above, unreasonable behaviour that has resulted in unnecessary or wasted expense in the appeal process, is not demonstrated.

Dan Szymanski

PLANNING INSPECTOR