



Costs Decision

Site visit made on 28 February 2023

by A J Sutton BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

Costs application in relation to Appeal Ref: APP/P0240/W/22/3310498 Land north of Shefford Road, Clophill, Bedfordshire, Bedford MK45 4BT

- 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 I Dodd for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission to construct a detached bungalow with associated works, without complying with a condition attached to planning permission Ref CB/21/04453/FULL, dated 4 April 2022.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) sets out that irrespective of the outcome of an appeal, costs may only be awarded where a party has behaved unreasonably, in either a procedural or substantive way, which has directly caused another party to incur unnecessary or wasted expense in the appeal process. Examples of unreasonable behaviour include preventing or delaying development which should be permitted, failure to produce evidence to substantiate reasons for refusal on appeal, persisting in an objection to the scheme which an Inspector has previously indicated to be acceptable and imposing conditions which are not necessary.
3. The PPG advises an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
4. The applicants contend that the Council acted unreasonably in attaching condition 4 to the original planning permission and in refusing permission to remove condition 4, as this condition does not comply with the test for a planning condition as set out in national guidance. The applicants state that this has led to them incurring unreasonable additional expense associated with preparing a second planning application and an appeal. They also claim that the delay in resolving this matter has also contributed to significant expense to the them.
5. The Council granted planning permission for a bungalow and in this respect, the Council has not prevented development that should be permitted. With regards to the proposal to carry out the development without complying with condition 4 of the planning permission, the Council, in its officer report and

appeal statement, assesses the site and surrounding features and this includes the pavement opposite the appeal property. The applicants assert that the Council failed to take a pragmatic approach or to consider the economic viability of imposing the condition. However, viability is referenced in the officer report. The Council's evidence also considers the appeal decision that relates to a neighbouring property.

6. The Highway Authority may not have stated an objection to the removal of the condition in dispute in this case, but it did raise a number of concerns about not providing the footpath and this was reflected in the Council's assessment and judgement of the proposal. Moreover, the Council substantiates its reason for imposing the condition with both reference to local plan policies and national guidance on planning conditions, and this was produced in the Council's evidence through this appeal process. In respect of the Council's reasoning, Policy T2 of the Central Bedfordshire Local Plan (Local Plan) relates to pedestrian safety and movement which is at issue in this appeal. Policy T1 of the Local Plan references travel plans, but it also addresses pedestrian safety and movement and is relevant in this regard.
7. The applicants state that they have been drawn into a dispute regarding the pavement opposite the appeal property. However, this is a matter outside of the appeal and this application for costs and has not been determinative in this costs decision for this reason.
8. In light of the above, although I disagree with the Council's decision and find that condition 4 is unnecessary, the Council substantiated its reasons for refusing planning permission and for imposing condition 4, and this included reference to Local Plan policies and the National Planning Policy Framework. Also, at each stage of the planning process the Council stated why it considered condition 4 to be necessary and that in the Council's view the condition satisfied the test for a planning condition. Moreover, the evidence before me does not indicate that the application process has been unreasonably protracted. Therefore, it has not been demonstrated in this case that the Council has behaved unreasonably in refusing permission. As a result, I find that the behaviour of the Council has not led to the applicants incurring unnecessary or wasted expense in the appeal process for the reasons outlined above.

Conclusion

9. Having considered all submitted evidence and for the reasons outlined above, an award of costs is not justified in this case.

A J Sutton

INSPECTOR