



Costs Decision

Site visit made on 16 March 2023

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th May 2023

Costs application in relation to Appeal Ref: APP/K0425/W/22/3294468 Hunters Gate, Deanfield, Saunderton, High Wycombe, HP14 4JR

- 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 Ms Natalia Goloubeva for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of planning permission for the erection of four outbuildings.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where:
 - a party has behaved unreasonably; and
 - the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG clarifies that unreasonable behaviour may either be procedural or substantive. Although an application for costs may relate to events before the appeal, the PPG states that costs unrelated to the appeal are not eligible for an award.
4. The application for costs by the appellant is based on substantive grounds in that it alleges the Council acted unreasonably in; - (1) preventing development that should clearly be permitted, having regard to the development plan, national policy and any other material considerations; and (2) vague, generalised or inaccurate assertions about a proposal's impact, which is unsupported by any objective analysis.
5. In accordance with section 38(6) of the 2004 Act¹ and section 70(2) of the 1990 Act², applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point of decision-making is therefore plan-led.

¹ Planning and Compulsory Purchase Act 2004

² Town and Country Planning Act 1990 (as amended)

Ground 1: Preventing development that should clearly be permitted, having regard to the development plan, national policy and any other material considerations

6. It will be seen from the appeal decision that I agree with the grounds upon which the Council refused the application, namely that relating to whether it was inappropriate development within the Green Belt. I also concluded that the proposal did not accord with the development plan and that other material considerations did not indicate that the proposal should be determined other than in accordance with this.
7. In view of this, I do not agree that the Council prevented development that should clearly be permitted. It did not therefore behave unreasonably and the application for costs on this substantive ground accordingly fails.

Ground 2: Vague, generalised or inaccurate assertions about a proposal's impact, which is unsupported by any objective analysis

8. The appellant states that the Council made a factually untrue statement in relation to the cumulative volume of the outbuildings shown on the amended plans. This is correct as the volume of the outbuildings had indeed reduced and not remain unchanged as alleged by the Council.
9. Furthermore, whilst the Council is under no obligation to accept amended plans during a live application, I agree with the appellant that once the case officer suggested their submission, followed by formal payment and receipt, that they should have been considered. I recognise the frustration & anger the appellant would have felt that this did not occur and consider the Council to have behaved unreasonably in not considering them.
10. However, I am nonetheless satisfied that the Council would still have refused the scheme even if it had considered the amended plans as the reduced size would not have decreased the cumulative volume of all existing and proposed outbuildings below the 140 cubic metre limit set out in Policy DM43 of the Local Plan and neither would it have addressed the Council's concerns in respect of the lawful use of the land.
11. Despite my conclusion that the Council behaved unreasonably, I am satisfied that the provision of the amended plans by the appellant did not result in unnecessary or wasted expense as I subsequently considered them at the appeal.
12. In view of the above, whilst I am satisfied that the Council did behave unreasonably, I have concluded that this did not cause the appellant to incur unnecessary or wasted expense in the appeal process. The application for costs on this substantive ground therefore fails.

Conclusion

13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Robert Fallon

INSPECTOR