



Costs Decision

Site visit made on 13 July 2023

By S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 7 September 2023

Costs application in relation to Appeal Ref: APP/K0235/W/22/3300816 Land adjacent to 12 Duck End Lane, Wilstead, MK45 3HP

- 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 N Drummond, for a full award of costs against Bedford Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a Passivhaus dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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.
3. The applicant considers that the Council has been inconsistent in assessing whether or not the appeal site is in a sustainable or isolated location. Furthermore, the applicant considers that the Council has been inconsistent within assessing whether the appeal site is located in or adjacent to a designated local gap. In combination, it is necessary to consider whether the Council has provided relevant evidence to show that there were reasonable grounds for their view.
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. The applicant refers to a decision at an adjoining site (18/01591/FUL) which the Council previously assessed was in a sustainable location. However, this was determined under a different Local Plan, and it is reasonable that the Council's assessment of the area may change. Accordingly, it is not inconsistent for the Council's consideration to be revised.
6. I have found that the appeal site is not in an isolated location due to the close proximity of existing settlements and the presence of transport links. While I have come to a different view to the Council, from the information before me, I cannot agree that the Council ignored, or failed to undertake a reasonable assessment of whether the site could be considered isolated. The weight to be given to any such assessment is a matter for the decision-maker according to the circumstances of a case.

7. Although the appeal site is not located within the local gap, it still adjoins it and as such, the proposed development would have an adverse impact on the countryside. As such, it would compromise its integrity as a landscaped area as a whole. The reason for refusal refers to the appeal site as being located within a local gap, which differs from my assessment. However, there is no evidence before me that this has resulted in the applicant incurring unnecessary or wasted expense in the appeal process, given that that proposed development would still have an adverse impact on the local gap.
8. Although I have come to a different conclusion to the Council on certain issues, this does not mean that it acted unreasonably in refusing the planning application. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Lo

INSPECTOR