



Costs Decision

Site visit made on 6 February 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th March 2024

Costs application in relation to Appeal Ref: APP/P0240/D/23/3325390 Herons Farm, Mancroft Road, Aley Green, Central Bedfordshire LU1 4DR

- 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 G Sayers for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for erection of two-storey side extensions to existing farmhouse.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that 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. Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal and with respect to the substance of the matter under appeal. Examples of unreasonable behaviour may include preventing or delaying development which should clearly be permitted; failure to produce evidence to substantiate each reason for refusal on appeal; making assertions which are unsupported by any objective analysis; or refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in the appeal being avoided.
4. The applicant for costs contends that the Council failed to co-operate with the appellant during the process of the application and that its rationale and conclusion on planning matters were fundamentally flawed. Moreover, it is alleged that the Council ignored material considerations that would have weighed in favour of the appeal proposal. The applicant contends that the preparation of the appeal resulted in expense which could have been avoided.
5. The PPG and National Planning Policy Framework encourage local planning authorities to take a positive approach and work proactively with applicants. The submitted application form states there were no pre-application discussions. However, the evidence indicates that the application was a resubmission of an earlier proposal. The Council contends that there were no amendments made following this and the fundamental concerns regarding the previous proposal had not been overcome.

6. The Council set out their concerns with the appeal scheme in e-mails to the applicant prior to issuing a decision. Further discussions ensued and an extension of time was offered to facilitate this. The Council responded promptly to further submissions and evidence presented by the applicant, and confirmed that consideration had been given to these, albeit they did not change the Council's position.
7. This indicates that the Council engaged with the applicant during the application process and had due regard to the information before them. I have no reason to believe that further discussion would have resolved the matter in dispute and allowed the appeal to be avoided.
8. The Council maintain that, while the proposed uplift in footprint and volume would not exceed 60% over and above that of the original, the extent of the cumulative uplift in floorspace would be of such significance to amount to a disproportionate addition and the proposal would harm the openness of the Green Belt. The applicant fundamentally disagrees with this approach.
9. However, the Framework does not set out a definition of "disproportionate additions" and the advice within the Central Bedfordshire Design Guide is not prescriptive, described only as a guiding principle. The matter is therefore one of planning judgement.
10. The reason for refusal was set out clearly in the Council's decision notice. Justification is provided in the Council's Officer Report, with reference to relevant national and local planning policy and guidance. The Council also articulated their reasoning in their correspondence prior to issuing a decision, citing caselaw which they considered supported their approach.
11. While it will be seen from my decision that I have taken a different view to the Council on this matter, for the reasons above I do not consider that the Council acted unreasonably in their assessment of the proposal or that their approach was fundamentally flawed.

Conclusion

12. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Ryan Cowley

INSPECTOR