



Costs Decision

Site visit made on 23 July 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 August 2024

Costs application in relation to Appeal Ref: APP/P0240/D/24/3339005 Larchfield, 81 West Hill, Aspley Guise, Central Bedfordshire MK17 8DU

- 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 & Mrs Thomas for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for amended access arrangements - closure of existing access, creation of new access further east.
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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. The appellant's application for costs relies on the change in stance from the pre-application advice given with no justification given, that the Council has incorrectly applied Green Belt policy and that the Council failed to undertake a balancing exercise considering the benefits of the proposal.
4. Informal advice given before an application is made is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take into account of all relative factors. In this case, the factors included the advice of the Council's Tree Officer following the submission of an Arboricultural assessment with the application. Accordingly, whilst I appreciate that the outcome of the application will have been a disappointment to the appellant, I have no reason to conclude that the informal advice was misleading as to amount to unreasonable behaviour on the part of the Council.
5. The assessment of openness of the Green Belt is a matter of planning judgement, that has both visual and spatial considerations. In matters of judgement pertaining to the qualitative aspects of an area, it is rarely the case that there can only be one plausible judgement. Although I did not share the Council's conclusions with regards to openness, I am satisfied that the Council gave a reasoned judgment for their decision, and it was not unreasonable for them to have found otherwise.
6. In respect of the perceived conflict with one of the five purposes of including land within the Green Belt, I did not concur with the Council that the proposal would fail to preserve the setting and special character of historic towns. Given

the locational context of the appeal site in this regard the Council misapplied the provisions of the Framework.

7. Be that as it may, the Council produced a planning report which considered the proposal against other development plan policies and national policy which articulated the Council's concerns, identified areas of conflict against specific policies and summarised these in the reason for refusal.
8. The planning officer report is not without criticism, including that in finding harm to the conservation area the report failed to show a balancing exercise in accordance with the Framework with the consideration of the beneficial public aspects of the scheme, including the highway improvements, not explicitly given. However, I have undertaken this balancing exercise. Whilst the weight to be given to public benefits is a matter of judgement, as can be seen in my Decision I conclude that the public benefits, including improvements to highway safety, would not outweigh the harm to the designated heritage asset. Accordingly, the appellant was not put to unnecessary or wasted expense in testing the Council's judgement at appeal.

Conclusion

9. Overall, the Local Planning Authority were not unreasonable in coming to their decision, and having considered the application on its merits alone, I have similarly found the proposal to be unacceptable.
10. For the reasons stated above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R Gee

INSPECTOR