



Costs Decision

Site visit made on 15 January 2025

by **J Hobbs MRTPI MCD BSc (hons)**

an Inspector appointed by the Secretary of State

Decision date: 18th February 2025

Costs application in relation to Appeal Ref: APP/K0235/W/24/3350523

Land adjacent to 37 Bedford Road, Great Barford, Bedfordshire MK44 3JF

- 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 Ray Sabey of Sabey Builders Lts for a full award of costs against Bedford Borough Council.
 - The appeal was against the refusal of planning permission for detached dwelling (Bungalow).
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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 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 applicant contends that the Council prevented a development which should clearly be permitted; refused planning permission on a planning ground capable of being dealt with by condition(s); and acted contrary to well-established case law.
4. As set out within my appeal decision, I do not consider that the development should be permitted. As part of my assessment, I have identified that the proposal would be contrary to the development plan and no material considerations, including the presumption in favour of sustainable development, would outweigh that harm.
5. The applicant has indicated that the Council could have conditioned proposed ground levels to mitigate any harm. The applicant also contends that the Council's assessment on whether a condition would be reasonable was based on the worst-case scenario and this approach is flawed and not set out in case law.
6. For the reasons set out in my appeal decision it would not be reasonable to condition proposed ground levels and finished floor levels. I acknowledge there is no case law which indicates that proposals should be assessed on a worst-case scenario basis. In this instance, the Council's "worst-case scenario" is that the proposed bungalow would be ground level at the front and raised to the rear. This is not an unreasonable assessment, particularly given that no topographical survey was submitted with the planning application, or any details on how the proposed dwelling would be sited within the slope.

7. I also consider that the request for a topographical survey was reasonable given the orientation of the appeal site and neighbouring properties, lack of separation, and the difference in ground levels.
8. The Council incorrectly applied the separation distances test within Design Code N5 of the Residential Extensions, New Dwellings & Small Infill Developments, design guidance, January 2000, as the rear windows would directly overlook the external courtyard of 37 Bedford Road. Nonetheless, this did not materially change their assessment of the proposal.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J Hobbs

INSPECTOR