



Costs Decision

Site visit made on 13 January 2025

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2025

Costs application in relation to Appeal Ref: APP/P0240/W/24/3344861 ECL House, Lake Street, Leighton Buzzard, Central Bedfordshire LU7 1RT

- 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 M & A Knightsbridge Properties Ltd for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for demolition of existing office building and redevelopment with 8x 1-bed mews houses and 1x 1-bed flat (conversion of existing office) and all ancillary works.
-

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 PPG provides examples of unreasonable behaviour by local planning authorities, which include amongst other things preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations and making inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant alleges that the Council acted unreasonably in a substantive sense, with particular reference to the process followed prior to a recommendation being made on the application, an inaccurate reference to the orientation of the proposed dwellings, and the way in which issues relating to the provision of private amenity space were weighed against other relevant factors. In the appellant's view, this led to an unjustified decision that planning permission should be refused, resulting in the need for the appeal.
5. It is apparent from the evidence, including correspondence provided with the costs application, that the Council's decision followed a period in which a proactive approach had been taken by both the appellant and Council officers to addressing matters raised at pre-application stage. It is also apparent that there was some difference of professional opinion between individual officers on the issues raised by the application. Nevertheless, the issues in question are a matter of judgement and the officer report gives a reasoned explanation for the eventual recommendation that planning permission be refused. While the application did not

- go to Committee, there is no indication that its determination under delegated powers was inappropriate, in the context of the Council's internal procedures.
6. The Officer Report includes, in the concluding section, a summary of factors weighing for and against the proposed development, which includes recognition of the benefits of new homes, and making more efficient use of previously developed land. The effect on heritage assets was considered earlier in the report, with a conclusion that no harm would arise. Since that indicates a neutral position, it was not necessary to revisit the weight attached to heritage issues in the final balance.
 7. The pre-application scheme included both balconies and ground floor patios. Although the Council advised against balconies for heritage reasons, their advice letter did not include a similar comment about the patios. Nor is there any clear indication that they could or should have known that omission of the balconies would also result in omission of any alternative form of private amenity space. Consequently, it is reasonable that the pre-application advice did not cover that eventuality. Following submission of a scheme which omitted any private amenity space, it was also reasonable for the Council to consider that against relevant requirements in Policy HQ1 of the Central Bedfordshire Local Plan 2021 and the Central Bedfordshire Design Guide Supplementary Planning Document 2023 (Design Guide). That does not mean they disregarded their own pre-application advice, since the previous scheme was materially different in this respect.
 8. The Design Guide requires provision of private amenity space and does not indicate that proximity to public recreation grounds negates that requirement. Therefore, the lack of reference to the recreation ground in the Officer Report was not unreasonable. However, the Council did provide a substantive response to that point in their Statement of Case for the appeal.
 9. The Officer Report refers to the proposed dwellings facing southwards, rather than south-east. However, the Council's concerns about the single-aspect layout included the relationship with the proposed parking spaces and the effect on privacy and outlook and their Statement of Case does not refer to orientation as being a determinative factor. Therefore, there is no indication that a more precise reference to the orientation of the dwellings would have changed the outcome.
 10. While I have reached a different judgement from the Council on some matters, including the level of soft landscaping, having taken account of all matters raised I have concluded that the appeal should be dismissed. It follows that I do not agree with the appellant that the Council's decision prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

Conclusion

11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Jane Smith

INSPECTOR