



Costs Decisions

Site visit made on 15 June 2023

by Jonathan Edwards DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2023

Costs application A in relation to Appeal Ref: APP/X0415/W/22/3307200 Land Adjacent To Bluebells, Stony Lane, Little Kingshill, Buckinghamshire HP16 ODS

- 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 Ms Patricia Davidson for a full award of costs against Buckinghamshire County Council.
 - The appeal was against the refusal of planning permission for erection of detached dwelling adjacent and vehicular access.
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Costs application B in relation to Appeal Ref: APP/X0415/W/23/3318105 Land Adjacent To Bluebells, Stony Lane, Little Kingshill, Buckinghamshire HP16 ODS

- 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 Ms Patricia Davidson and the Trustees of the Carlton Settlement for a full award of costs against Buckinghamshire County Council.
 - The appeal was against the refusal of planning permission for erection of detached dwelling adjacent vehicular access.
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Decisions

1. The application A for an award of costs in relation to Appeal Ref: APP/X0415/W/22/3307200 is refused. The application B for an award of costs in relation to Appeal Ref: APP/X0415/W/23/3318105 is also refused.

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and so caused the applicant to incur unnecessary expense in the appeal process. Cost application A claims unreasonable behaviour by the Council in terms of refusing planning permission on grounds that could have easily been addressed. Both applications claim unreasonable behaviour in terms of the Council carrying out inappropriate and inconsistent assessments of the proposals against planning policies.
3. Following the submission of a revised layout plan with appeal A, the Council has withdrawn its concerns over the effect on trees and the adequacy of the proposed pathway. The National Planning Policy Framework (the Framework) advises that local planning authorities should work proactively with applicants to secure developments that would improve economic, social and environmental conditions of the area. In this case, the Council found the proposal under both appeals would represent inappropriate development in the

Green Belt. In such circumstances, any effort to address concerns regarding trees and the pathway would not have led to the Council granting planning permission for the first planning application, as evidenced by its decision on the second application.

4. In any event, emails have been provided that show the Council's officer raised potential concerns with the applicants' agent prior to the determination of the first planning application. These demonstrate that the Council sought to cooperate with the applicants and to address perceived problems. It is noteworthy that the plan with amendments seeking to address the concerns raised was not submitted in response to the Council officer's emails or before the Council issued its decision on the first planning application.
5. The Framework encourages pre-application engagement and front loading to improve the efficiency and effectiveness of the planning application process. The applicants did not seek advice from the Council before submitting the applications. Given this context and the opportunity provided to the applicants to respond to concerns, I am satisfied the Council has acted fairly in the way it processed the first planning application. It was reasonable to include refusal reasons on trees and the pathway in the absence of the revised plan.
6. The Council's decisions rest heavily on the view that the proposals would be inappropriate development in the Green Belt. The reports on the applications highlight the relevant Green Belt policies from the Chiltern District Local Plan 1997 (the LP) and the Framework. LP policy GB5 is referred to in the reports and so it has not been ignored. Also, the report shows consideration has been given to the legal opinion provided with the second planning application.
7. The applicants claim the Council has adopted an extremely restrictive approach in establishing whether the proposals would represent limited infilling in a village. However, the Council's case draws on the definition set out under LP policy GB4. This definition is not replicated in the Framework and so the Council suggest LP policy GB4 should be afforded less weight. Nevertheless, it forms part of the development plan and so it provides an appropriate basis on which to make an assessment. I am satisfied the Council has not inappropriately applied LP policies in the assessment of the proposals.
8. The issue as to whether the developments would be acceptable infilling is a planning judgment based on the particular characteristics of the case. As such, it is not inconsistent for the Council to refuse planning permission when it has allowed housing on other sites. The Council has set out reasons why it considers the proposals would not accord with the LP policy GB4 definition. It is understandable for the Council to then consider the effect of the proposals on openness as part of the Green Belt balancing exercise. My appeal decisions explain why I disagree with the Council but it has substantiated its case with evidence. As such, it is not unreasonable for the Council to have refused planning permissions.
9. For the above reasons, I conclude that both costs applications fail to demonstrate unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG. Therefore, an award of costs is not justified.

Jonathan Edwards

INSPECTOR