



Costs Decision

Site visit made on 30 May 2025

by **Graham Chamberlain BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2025

Costs application in relation to Appeal Ref: APP/P0240/W/25/3360168

Land South of Hockliffe Road, Leighton Buzzard, Bedfordshire LU7 9NX

- 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 Thrive Homes for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for 'Residential redevelopment to provide 41 dwellings with associated access, parking and landscaping'.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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 also explains that a Local Planning Authority is at risk of an award of costs if it withdraws a reason(s) for refusal, fails to produce evidence to substantiate each reason for refusal or refuses permission on a ground capable of being dealt with by a condition.
4. The Council refused the application for four reasons. This decision was made by the planning committee against the recommendation of Officers as the Council is entitled to do. Indeed, there would be little point in having planning committees if they are unable to go against an Officer's recommendation. Nevertheless, following the submission of an appeal by the applicant, the Council reviewed its position with a consultant. Comments from the consultant have not been provided but I understand the advice given was that the reasons for refusal should not be defended. The Council accepted this advice and did not seek to defend its first two reasons for refusal. In effect, the Council both withdrew the reasons for refusal and failed to substantiate them. This is clearly unreasonable behaviour that has put the applicant to the unnecessary expense of addressing them as part of their appeal.
5. The Council maintained its position in respect of the third and fourth reasons for refusal, which related to the absence of a planning obligation. That said, the third and fourth reasons were only imposed because the fundamental concerns raised under the first two reasons for refusal meant further negotiations on the planning obligation would not yield an acceptable scheme. In other words, had the Council not pursued its concerns articulated in the first and second reasons for refusal,

negotiations would have progressed with the planning obligation and permission would have been very likely granted.

6. I say 'very likely' granted because Officers had recommended approval subject to completing the planning obligation. The appellant did not (and has not) outright objected to the heads of terms the Council sought following clarification regarding the necessity of some of them. The main residual area of disagreement was the monitoring fee, but this would probably have been resolved as it was the amount rather than the principle that was in dispute. Ultimately, the Council has not raised significant objections to the content of the submitted unilateral undertaking.
7. Consequently, the concerns raised in the first and second reasons for refusal are key. Had they not been raised then the proposal would have very likely been approved by the Council. I therefore consider a full award of costs is justified. In coming to this view, I note that the Council gave a clear indication in writing on the 9 April 2025 that it was not going to defend the appeal. This was a pragmatic concession that would have reduced the applicant's costs. However, the appeal had been submitted on the 5 February 2025 with a statement of case. Therefore, the appellant was put to unnecessary expense of preparing this and the other appeal submissions. Furthermore, additional expense was incurred attending the site visit, providing comments on the five-year housing land supply and addressing the concerns of interested parties and my questions.
8. I did not find in favour of the appellant in respect of the impact on community infrastructure or permeability. Both were points raised in the first and second reasons for refusal. However, my concerns relating to permeability can be addressed through the imposition of a condition and the case in respect of community infrastructure was made by interested parties not the Council. As such, this does not alter my position that the Council's decision not to defend its decision when an appeal was submitted was unreasonable.
9. Consequently, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Central Bedfordshire Council shall pay to Thrive Homes, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Central Bedfordshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Graham Chamberlain
INSPECTOR