

Costs Decision

Site visit made on 24 May 2016

by Amanda Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 June 2016

Costs application in relation to Appeal Ref: APP/A1910/W/16/3145933 89, 87, 85 and 71 Sunnyhill Road, Hemel Hempstead HP1 1SZ

- 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 Rob Waterhouse for a full award of costs against Dacorum Borough Council.
 - The appeal was against the refusal of planning permission for residential development comprising 26 houses (5x4 bed, 10x3 bed and 11x2 bed) with garaging, parking and new estate road.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The national Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs may only 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. The appellant has referred to Circular 03/2009 in his application for costs but this was withdrawn in March 2014 and replaced by the PPG.
 3. The appellant made an application for housing on land behind Sunnyhill Road which was recommended for approval in the officer's report. However, the application was refused at committee stage with Members taking account of representations made by local people, as well as the content of relevant policies in the Local Plan with reference to development opportunities on the site.
 4. The appellant submitted a cost application in writing. In this it was suggested that the Council had acted unreasonably as it had disregarded the advice of officers, as well as the merits of the extant permission for a previous application on a portion of the appeal site. The appellant also suggested that the Council was unduly influenced by local opposition.
 5. The extant permission is for a development of approximately half the area of the appeal before me, and with a different mix of house types. It was allowed at appeal. However, it is for a different, albeit not dissimilar scheme, and covers a significantly smaller area. I was not persuaded in my reasoning for the Decision that the merits of the extant scheme could necessarily be attributed to the appeal before me. Nor could it be presumed that the balance
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of benefits and adverse effects would be unchanged, given the difference in scale between the two proposals.

6. As such, I do not find it unreasonable that a separate application is subject to scrutiny by Members, even when, as in this case, officers did not have serious concerns. Members are entitled to take a different view from their officers when material considerations, supported by policy, are raised by constituents. I have reviewed each reason for refusal and have reached a different conclusion from Members and local representations in respect of the junction design, but have reached the same conclusion as Members in respect of character and appearance. In respect of the likely demand for on-street parking and further congestion on Sunnyhill Road, I have agreed with the local representations that the development would have some adverse impact.
7. Consequently, I do not find that the Council has acted unreasonably. With regard to wasted expense, whilst I acknowledge that the appellant has incurred costs in association with this appeal, each appeal is determined on its own merits.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. An award of costs is not justified.

Amanda Blicq

INSPECTOR