

Costs Decision

Site visit made on 23 August 2016

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 20 September 2016

**Costs application in relation to Appeal Ref: APP/G5180/W/3152323
Chelsfield Lakes Golf Centre, Court Road, Orpington, London Borough of
Bromley BR6 9BX**

- 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 Andrew Craven on behalf of Chelsfield Lakes Golf Centre for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of planning permission for the provision of an adventure golf course with associated ornamental features, lighting, fencing and landscaping.
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Decision

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

Reasons

2. Planning Policy Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense or wasted expense in the appeal process.
 3. The appellant states that similar proposals for adventure golf courses have already been found to be appropriate and acceptable in other parts of the Green Belt by the London Borough of Bromley and nearby authorities. He states that the proposal is clearly aimed at providing outdoor sport and recreation and will preserve the openness of the Green Belt and not conflict with the 5 purposes of the Green Belt. The appellant believes that special circumstances did not need to be demonstrated but nevertheless very special circumstances were put forward to justify the proposal. The appellant states proposal therefore clearly accords with national planning policy and should not have been refused. This behaviour was unreasonable and has result in the unnecessary expense of this appeal
 4. Paragraph 049 of the Planning Practice Guide states that examples of unreasonable behaviour by local planning authorities include preventing development or delaying development which should be clearly permitted, having regard to its accordance with the development plan, national policy and any other material considerations, and not determining similar cases in a consistent manner.
 5. Paragraph 89 of the National Planning Policy Framework (the Framework) advises that the provision of appropriate facilities for outdoor sport and
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recreation such as the appeal proposal is not inappropriate development as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within the Green Belt. The Council's decision is clear and states that the proposal would cause harm to openness and does not consider that special circumstances have been demonstrated. It also clearly states which policies of the Bromley Unitary Development Plan it would be in conflict with and cites conflict with the Framework. The impact on openness has been adequately substantiated in the Officer Report and the report also clearly considers the other considerations put forward by the appellant and goes onto determine whether or not they would amount to very special circumstances.

6. While I appreciate that the outcome of the application will have been a disappointment to the appellant, the Council were not unreasonable in coming to that decision, and indeed following consideration of the appeal on its own merits, I have concurred with the Council.
7. The appellant has provided some details of an application for an adventure golf course which appear to have been considered favourably by the London Borough of Bromley. From the evidence I have before me it would appear that the site at Chislehurst was for the remodelling and redevelopment of an existing adventure golf course and the Council considered the proposal to preserve the openness of the Green Belt. Such matters are a matter of judgement and will depend on the existing site characteristics and specific application proposals. I have no substantive evidence before me to clearly demonstrate that this proposal is directly comparable to the appeal proposal and I am therefore unable to conclude that the Council have been inconsistent in their decision making.
8. The appellant believes the Council's request for them to prepare a Landscape Visual Impact Assessment (LVIA) was unreasonable and that no consideration has been given to this Assessment by the Council during the appeal process.
9. The Council's Decision stated the development was inappropriate development and that they did not consider that very special circumstances have been demonstrated that outweigh the harm caused to openness and character of the Green Belt. It also stated that the potential visual impacts of the scheme had not been fully assessed. The Council considered the application without an LVIA and I do not believe it was a matter on which the decision turned. However, the necessity to provide a LVIA to support the appeal was a matter for the appellant to determine. I took into consideration the LVIA in my consideration of the visual impacts of the proposal and there is no substantive evidence to suggest that the Council did not also consider its findings, albeit they did not make specific reference to it.
10. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense, as described by the Planning Practice Guide, has not been demonstrated and an award of costs is not justified.

Elizabeth Pleasant

INSPECTOR