
Costs Decision

Site visit made on 29 November 2016

by David Cliff BA Hons MSc MRTPI

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

Decision date: 9th January 2017

Costs application in relation to Appeal Ref: APP/M1710/W/16/3156459 The Glebe House, School Lane, Bentley, Farnham GU10 5JP

- 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 East Hampshire District Council for a full award of costs against Mr Chris Gwilliam.
 - The appeal was against the refusal of planning permission for 'the development of land to the rear of Glebe House to provide 12 detached dwellings with associated landscaping'.
-

Decision

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

Reasons

2. Planning Policy Guidance advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. In his appeal statement, the appellant does not dispute that the proposed development would be located outside of the identified settlement boundary. However, arguments are put forward which I have read as being the material considerations which the appellant considers to outweigh the conflict with the relevant development plan policies. These include arguments concerning permitted development, the location of the site in relation to local services and other development that has previously taken place in the village.
 4. Paragraphs 2 and 12 of the National Planning Policy Framework makes clear that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Although, I have come to the conclusion in my appeal decision that such material considerations do not outweigh the conflict with the development plan, I am satisfied that the appellant has, albeit briefly, sought to demonstrate that there are relevant material considerations in this case.
 5. In relation to biodiversity, the appellant submitted a Preliminary Ecological Assessment (PEA) with the original application which includes an assessment of the implications for Great Crested Newts. The PEA's conclusions include the details of the further information that would be required in the event that a licence is required from Natural England, including the need for further surveys of nearby ponds and a detailed mitigation strategy. It also outlines the types
-

of mitigation measures that are likely to be utilised. The appellant goes on to state in his appeal statement that further surveys and details of translocation could be secured be a condition.

6. In my appeal decision I have come to the view that I cannot be certain that there is a reasonable prospect of a licence being issued. Whilst, I have also come to the view that further surveys should not be left to be secured by a planning condition (should the appeal be allowed), I am satisfied that the appellant has sought, albeit unsuccessfully and to a rather limited extent, to demonstrate that the protected species are capable of being protected. Whilst the Council considers that insufficient information has been provided to allow it to meet its duties under the Habitats Regulations, on the balance of probability I do not consider that the appellant has behaved unreasonably with regards to this matter.
7. I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. An award of costs is therefore not justified.

David Cliff

INSPECTOR