

Costs Decision

Hearing held on 6 December 2016

Site visit made on 6 December 2016

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 01 March 2017

Costs application in relation to Appeal Ref: APP/R3650/W/16/3155366 Old Mill Farm, Old Portsmouth Road, Thursley, Godalming, GU8 6NJ.

- 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 P Edwards for a full award of costs against Waverley Borough Council.
 - The hearing was in connection with an appeal against the refusal of an application for planning permission for the use of land for the stationing of a caravan for residential occupation, and ancillary domestic storage and erection of a porch.
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Decision

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

The submissions for Mr Edwards

2. The appellant's claim was made in writing at the hearing but without prior notification to the Council. In summary, he submits that the Council acted unreasonably in not considering a temporary permission for the residential caravan given the circumstances where: the Council could not point to any alternative site that was available for the appellant to turn to; there is now a recognised need for gypsy sites and no 5 year supply of land to meet this; and it will be at least a further three years before a site allocations plan is adopted. The Council therefore prevented development that could reasonably have been allowed contrary to the guidance in paragraph 49 of the national Planning Practice Guidance.

The response by the Council

3. The Council was given time to consider the appellant's claim. The Council submits that it did not act unreasonably in deciding to refuse the planning application. In addition to the factors put forward by the appellant, there were many other factors against the development not least it being inappropriate development in the Green Belt. The Council had to have regard to recent government advice where the Planning Policy for Traveller Sites indicated that unmet need and personal circumstances would be unlikely to outweigh the harm to the Green Belt to establish very special circumstances. Considerable weight had also to be given to conserving the landscape of the AONB and the AGLV and the protection of wildlife habitats in the long term.
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Reasons

4. 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.
5. Although the Council did not submit a statement in support of the appeal, it is clear to me from both the officer's report on the application and the oral evidence given at the Hearing that the Council took into account the relevant provisions of the development plan as well as the many other material considerations that apply to the proposal. As I recognised in the appeal decision, the outcome of the balance of considerations depends on the weight afforded to individual aspects. Part of this includes the weight that must be given to such factors as 'inappropriate development' in the Green Belt which is set out in government guidance but otherwise the weight to be applied to a consideration is a matter for the decision maker.
6. I do not consider that any material consideration in favour of the development was omitted by the Council in its consideration. Further, the correct test of whether there were 'very special circumstances' was properly applied and this is a high bar to reach in considering to grant a permanent permission or one for a temporary period.
7. Overall, although I reached a different conclusion on the planning merits of the appeal case, I am satisfied that the Council's refusal of the application was not at odds with clear planning principles and it could be substantiated. The Council therefore did not act unreasonably in refusing the application. The costs incurred by the appellant in making the appeal were therefore the normal costs arising when the right of appeal is exercised.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

David Murray

INSPECTOR