

Costs Decision

Hearing held on 17 and 24 January 2017 and 15 February 2017.

Accompanied site visit made on 17 January 2017

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 2 March 2017

Costs application in relation to Appeal Ref: APP/V2723/W/16/3152766 Somerset Close, Catterick Garrison, North Yorkshire, DL9 3HE

- 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 Richmondshire District Council for a full award of costs against Gleeson Developments Ltd.
 - The Hearing was in connection with an appeal against the refusal of the Council to grant planning permission for the erection of 40 no. 2, 3 and 4 bedroom 2-storey residential dwellings and associated works.
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Decision

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

Reasons

2. The Council's costs application and the appellant's response were submitted in writing with final comments from the Council made orally.
 3. The *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. In summary, the Council argues that the appellant behaved unreasonably by pursuing an appeal in circumstances where the proposal, as it stands, is contrary to the Development Plan and the *National Planning Policy Framework* (the Framework) and no material considerations have been put forward that might reasonably outweigh those policy objections. As a result, the Council considers that it has incurred otherwise unnecessary and wasted expense in the appeal process.
 4. The PPG indicates that an appellant is at risk of an award of costs being made against them if the development is clearly not in accordance with the Development Plan, and no other material considerations are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
 5. As set out in my appeal decision, the Development Plan requirement that housing development makes provision for Affordable Housing is subject to economic viability assessment. This is consistent with the Framework. Furthermore, I am conscious that the outcome of a viability assessment can be
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greatly influenced by values attributed to a number of factors, such as the likely sales values for the proposed units, which are a matter of judgement.

6. I do not share the view of the appellant that the scheme includes Affordable Housing. Nonetheless, the appellant has produced evidence at appeal, such as its own assessment of sales values with reference to data drawn from a wider area and associated viability assessments, to support its position that the provision of Affordable Housing would not be viable and so the absence of provision in this case would not conflict with the Development Plan or the Framework. In my appeal decision I have identified that I do not agree with the appellant on these matters. Nevertheless, the key question of viability is a matter of judgement and I consider that the evidence presented by the appellant provides a respectable basis for its stance and pursuance of the matter at appeal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

I Jenkins

INSPECTOR