

Costs Decision

Site visit made on 7 and 21 February 2017

by **J Dowling BA(Hons) MPhil MRTPI**

Decision date: 21 March 2017

Costs application in relation to Appeal Ref: APP/J1535/W/16/3162580 Debbies Garden Centre, Riddings lane, Harlow, Essex CM18 7HT

- 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 N White for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of planning permission for proposed development for housing.
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Decision

1. The application for costs is dismissed.

Reasons

2. National Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has acted unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeals process. Claims can be procedural – relating to process; or substantive – relating to issues arising from the merits of the appeal. Unreasonable behaviour can include preventing or delaying development which clearly should be permitted.
 3. The appellant has applied for costs on both a procedural and a substantive basis in that they consider that the Council did not provide pre-application advice; the Council should have sought confirmation for the number of units proposed and liaised with the applicant over the additional information that was required to determine the planning application (procedural) and that as the site is allocated for housing in the emerging Local Plan (the eLP) the Council have prevented development which clearly should have been permitted(substantive).
 4. Whilst I acknowledge that the Council did not provide formal written pre-application advice the appellant did have a pre-application meeting at the site in November 2015. This meeting was with a principle planning officer where advice would have been given regarding the constraints on the site and in particular the fact that it was designated as Green Belt. As a consequence I am satisfied that the appellant would have had an understanding of the planning issues for the site prior to the submission of the planning application.
 5. When validating a planning application a Council is required to cross check the information detailed on the planning application form with the other documents submitted with an application. In doing so, for this appeal, the Council discovered a difference between what was detailed on the application form and what was contained within the supporting documents. As a consequence the Council considered it necessary to amend the description of development to
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reflect the information contained within the Design and Access statement. However, a letter was sent to the appellant giving them the opportunity to check and challenge this change. I am therefore satisfied that the appellant had the opportunity at the start of the application process to confirm with the Council the number of units that were being proposed and amend the description of development.

6. Whilst the application was submitted in outline with all matters reserved the Council would need to be satisfied that the development proposed would be capable of being accommodated on the site without causing material harm. I am satisfied that the appellant was made aware of the additional information that would have been required to address these concerns and provided with the opportunity to submit it, which they decided not to do.
7. For the reasons outlined in my decision letter I have explained why the allocation of the site in the eLP can be given only limited weight and why I considered that the other material considerations which were considered as part of the planning balance would not justify the proposal.
8. I conclude therefore that unreasonable behaviour by the Council resulting in unnecessary or wasted expense on behalf of the appellant as described in the PPG has not been demonstrated. Accordingly, this application for costs fails.

Jo Dowling

INSPECTOR