
Costs Decision

Site visit made on 28 March 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 12th April 2017.

Costs application in relation to Appeal Ref: APP/X0415/W/16/3165674 Burtons Wood, Dibden Hill, Chalfont St Giles HP8 4RD

- 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 David White for a partial award of costs against Chiltern District Council.
 - The appeal was against the refusal of planning permission for "redevelopment of site to provide four detached chalet style dwellings".
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may 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.
3. The applicant considers that the Council failed to produce evidence to substantiate the second and third reasons for refusal, and made vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by objective analysis. The applicant further argues that the Council acted contrary to well-established case law.
4. In relation to the second reason for refusal, the officer's report set out details of the proposed development, identifying the relevant planning policy and an assessment of the development in accordance with the policy and other material considerations. The officer applied Local Plan Policy GB22A¹. There was no reference to a recent appeal decision² in which an inspector attributed little weight to that policy. However, reference was also made to Policy CS16 of the Core Strategy,³ and the development was found to be contrary to both policies.
5. The officer did not refer to the relevant evidence submitted by the applicant, including the Chiltern Employment Land Needs Assessment (March 2013) or the Buckinghamshire Housing and Economic Development Needs Assessment: Report of Findings. Instead the report focussed on the lack of a market appraisal or viability assessment. I agree that the evidence should have been

¹ Chiltern District Local Plan, adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011

² APP/X045/W/15/3133653

³ Core Strategy for Chiltern District, adopted November 2011

brought to the attention of members of the planning committee. However, it is not unreasonable for the Council to require a site-specific market assessment in order to demonstrate that there would be no reasonable prospect of the site being used for commercial purposes in the future. Whilst I disagreed with the Council on this issue, as set out in my Decision, I do not consider that the Council's concerns were without merit.

6. In relation to the third reason for refusal, the officer made a planning judgement based on the merits of the design. It is clear that both members and the officer were familiar with the site and were able to make an objective assessment of the proposal in the context of the existing land uses. Although I also disagreed with the Council on this issue, there is no evidence that the Council's conclusion was unsupported by objective analysis.
7. The applicant refers to other cases and claims these were not determined in a consistent manner. I have considered the site at J and L Travel Ltd⁴, the details of which were provided by the applicant. As explained in my Decision, there are significant differences between that site and the appeal site.
8. The applicant considers that if the Council has not been unreasonable in its approach to the assessment of the employment land and design, then the only harm would have been in relation to the inappropriate development in the Green Belt. Although I ultimately agreed with the applicant and found there would be no harm in respect of loss of employment land and character and appearance, this does not weigh for or against the proposal. It is still necessary to demonstrate that other considerations clearly outweigh the totality of the harm.
9. Consequently, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is, therefore, not justified.

Debbie Moore

Inspector

⁴ Ref CH/2014/1248/OA dated 1 April 2015