
Costs Decision

Site visit made on 13 March 2017

by S J Buckingham BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 22nd May 2017

Costs application in relation to Appeal Ref: APP/D3830/W/16/3161706 The Baskings Parva, Selsfield Road, East Grinstead, RH19 4LP

- 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 Mid Sussex District Council for a full award of costs against Quantum Land and Planning Ltd..
 - The appeal was against the refusal of planning permission for the erection of 2 detached chalet dwellings with garages.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guide 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 application for costs put forward by the Council is substantive, and relies on the fact that the appellant's grounds of appeal had no prospect of succeeding. Two grounds are put forward. The first is that the proposal for two dwellings on the site was clearly in conflict with the development plan and there had been no material change in planning policy or circumstances or circumstances on the ground since the Planning Inspectorate had dismissed an appeal for a single dwelling on the site in March 2016. The second is that that no adequately supported material considerations were advanced to indicate that the decision should have been made otherwise.
4. The appellant cites case law arising from a judgement dated 25 November 2016¹ to indicate that the only place for establishing whether or not a proposal represents sustainable development is Paragraph 14 of the National Planning Policy Framework (the Framework) and the application of the "tilted balance". However, it remains the case the under primary legislation that the development plan is the starting point for determining proposals, and the fact that policies may be out of date does not mean that they have no weight or can be discarded entirely.
5. Furthermore, the Inspector in the previous appeal decision relating to the site, dated 14 March 2016², had in fact applied the tilted balance, and despite

¹ Barker Mill Estates v Test Valley Borough Council (2016) EWHC 3028

² APP/D3830/W/15/3137051

attaching significant weight to the acknowledged shortfall in housing land supply in the District, found the adverse impacts of the proposal to significantly and demonstrably outweigh the benefits of the creation of a single additional dwelling. The Council also applied this balance in determining the application, and the appellant should not therefore have been surprised that a proposal involving two dwellings was also found to fail that test.

6. New supporting information put forward by the appellant since the previous appeal included small clarifications in relation to the services and facilities available locally and details of bus routes in the vicinity of the appeal site. A lack of information along these lines was mentioned by the previous Inspector in his decision, and it is perhaps understandable that this information should be advanced. However, the distance of the appeal site from the services and facilities of the settlement have not changed, nor has the nature of Selsfield Road, and in terms of demonstrating how this isolation was capable of being mitigated, the newly supplied information appears relatively slight.
7. The appellant also raised the issue of previously developed land, not put before the previous Inspector, but no convincing evidence was put forward to demonstrate why this should overcome the unsustainable location of the site.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Quantum Land and Planning Ltd. shall pay to Mid Sussex District Council, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Quantum Land and Planning Ltd., to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

S J Buckingham

INSPECTOR