

Costs Decision

Hearing held on 29 March 2017

Site visit made on 29 March 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 20 June 2017

Costs application in relation to Appeal Ref: APP/G5180/W/16/3164513 Farnborough Primary School, Farnborough Hill, Orpington BR6 7EQ

- 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 Paul Chandler, Nexus Education Schools Trust for a partial award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of an application for the expansion of Farnborough Primary School from single form of entry to 2 forms of entry. Works to include the demolition of an existing extension; erection of a new build two-storey classroom block; refurbishment of existing school building; associated hard and soft landscaping works; provision of temporary classroom accommodation.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

Procedural Issues

3. The applicant claims that despite holding pre-application discussions in which the Council did not raise the Green Belt as a potential issue, it was included as a reason for refusal. However, whilst such advice should provide a clear and authoritative view on the merits of a proposal, it cannot pre-empt the democratic decision-making process. The Council is not bound by advice provided at this stage, and was entitled to revisit this matter in determining the planning application. It did not act unreasonably in this regard.

Substantive Issues

4. The applicant claims that the Council's reason for refusal concerning the Green Belt was unreasonable and that it did not substantiate the reason. He considers that it did not provide clear and cogent evidence or an objective analysis of the impact of the proposal on the Green Belt, and that it has misunderstood the application of national and local policy. He also claims that whereas the planning application the subject of this appeal was refused for reasons which included harm to the Green Belt, a similar planning application,
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- on the same site, was refused but without harm to the Green Belt as a reason for refusal.
5. The PPG provides examples of unreasonable behaviour¹ in terms of the substance of the matter under appeal, which include:-
- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - the failure to produce evidence to substantiate each reason for refusal on appeal; and,
 - not determining similar cases in a consistent manner.
6. As regards the reason for refusal, while I found the relevant local policy inconsistent with the Framework, the Council considered the proposal against the relevant tests of the Framework referring to the measurements of the scheme and assessing its impact before drawing a balanced conclusion, which was not unreasonable. While this section of its statement of case may have been comparatively short, it was nonetheless effective in substantiating the reason for refusal. The evidence before me does not, therefore, indicate that the Council acted unreasonably in refusing the application on harm to the Green Belt, nor that it failed to substantiate that reason.
7. The Council earlier refused a planning application which was similar to the one the subject of this appeal but for having fewer on-site parking spaces and less information regarding highways matters. The reason for refusal of that application related solely to highways and transport matters, whereas the application the subject of this appeal was refused for harm to the Green Belt as well as highways and transport matters. At the Hearing, the Council was unable to point to any material change in planning policy or case law which led it to treat the applications differently.
8. I appreciate the frustration of the applicant and I understand the need for consistency in decision-making. However, it will be seen from my Decision that the Council's conclusions regarding the Green Belt on this second application were similar to my own. It follows that the Council has not behaved unreasonably in this appeal.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Patrick Whelan

INSPECTOR

¹ Paragraph: 047 Reference ID: 16-047-20140306 and paragraph: 049 Reference ID: 16-049-20140306