



Costs Decision

Site visit made on 9 May 2017

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 23 June 2017

Costs application in relation to Appeal Ref: APP/G5180/W/17/3169105 378 Main Road, Biggin Hill TN16 2HN

- 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 the Council of the London Borough of Bromley for a full award of costs against Mr David Abbott.
 - The appeal was against the refusal of planning permission for a detached three bedroom dwelling.
-

Decision

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

Reasons

2. Paragraph 030 of the National Planning Practice Guidance (NPPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 053 of the NPPG sets out the type of behaviour that may give rise to a substantive award of costs against an appellant. This states that the right of appeal should be exercised in a reasonable manner and that an appellant is at risk of an award of costs being made against them if the appeal or grounds of appeal had no reasonable prospect of succeeding.
4. This may occur when the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence. Or when the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.
5. The Council's case is essentially that the proposal is inappropriate development under the terms of both the Unitary Development Plan (UDP) and the National Planning Policy Framework (the Framework) and that no compelling material considerations have been advanced given that the proposal is identical to that dismissed at appeal in 2014 (Ref APP/G5180/A/14/2222405).

6. Whilst I have had regard to the Council's case, I am satisfied that in submitting the appeal the appellant genuinely felt that it had a reasonable prospect of success, particularly given that two previous Inspectors made different judgements as to whether a dwelling on the appeal site would constitute limited infilling in a village. The application and appeal contained supporting information which sought to substantiate the appellant's view that the appeal site is located within a village.
7. In the absence of any definition within the Framework as to what is a village, whether the appeal site is or is not in a village is a matter of judgement based on evidence. Whilst as set out in the appeal decision my judgement, based on the available evidence, is that the appeal site is not in a village, I do not consider that the appellant has behaved unreasonably in submitting the appeal or that he failed to submit sufficient evidence to substantiate his grounds of appeal.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all matters raised, an award of costs is not justified.

Beverley Wilders

INSPECTOR