

---

## Costs Decision

Inquiry Held on 6-8 June 2017

Site visit made on 5 & 7 June 2017

**by Nick Fagan BSc (Hons) DipTP MRTPI**

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

**Decision date: 18 July 2017**

---

### **Costs application in relation to Appeal Ref: APP/P1615/W/16/3152190 Land off Chartist Way, Staunton, Gloucestershire GL19 3RY**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Gloucester Land Company Limited for a full award of costs against Forest of Dean District Council.
  - The inquiry was in connection with an appeal against the refusal of outline planning permission for residential development for up to 27 dwellings, including infrastructure, ancillary facilities, open space, landscaping and construction of a new vehicular access off Chartist Way.
- 

### **Decision**

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

### **The submissions for Gloucester Land Company Limited**

2. The appellant maintains that the Council has prevented or delayed sustainable development by making vague and generalised objections. It has persisted in this and not reviewed its case despite now accepting that it cannot demonstrate a five year housing land supply (5YHLS) and that it is seeking to allocate the southern half of the site for housing in its emerging Allocations Plan.
3. Furthermore it has failed to acknowledge what the previous appeal Inspector said in relation to the differences in the appeal site (the 'eastern field') and the 'western field', which formed part of the previous appeal scheme<sup>1</sup>. There has been no change in the legal or policy context or physical changes on the ground since the last appeal to justify such an approach.
4. The appellant argues that the Council's planning witness<sup>2</sup> unreasonably maintained that its policies should be afforded significant weight despite it not having a 5YHLS and that he fundamentally misunderstood national housing policy.

### **The response by Forest of Dean District Council**

5. The Council has defended its first two refusal reasons using professionally qualified witnesses who have put forward a comprehensive case. It has

---

<sup>1</sup> APP/P1615/A/14/2228466 Dismissed 3 July 2015

<sup>2</sup> Stephen Colegate

conceded that it has no 5YHLS but that does not outweigh the harm to heritage assets and the Locally Valued Landscape.

6. The previous appeal Inspector was not considering development simply on this appeal site. He stressed the importance of the collective value of the relevant heritage assets. He also only considered the visual impact of development on the 'eastern field', which the appellant's heritage witness accepted is not the only consideration when assessing the effect of the proposal on the heritage assets.
7. The Council's planning witness conceded that its policies relating to housing have reduced weight in light of the lack of a 5YHLS and he was quite entitled to say that a lesser number of dwellings in such a context would comprise a lesser benefit.

### **Reasons**

8. The Council has clearly mounted a substantive and robust justification for its refusal reasons, including a proper Heritage Assessment in accordance with Historic England guidance by Ms Rouse and a detailed critique of the appellant's Landscape and Visual Assessment by Mr Radmall.
9. These witnesses were quite entitled to come to a different view than the previous appeal Inspector and have clearly explained why in their evidence, including that impact on heritage assets is not confined merely to visual considerations. The fact that I disagree with them is immaterial.
10. Mr Colegate agreed in paragraph 7.12 of his evidence that the weight relating to policies affecting housing supply is reduced in light of the Council's lack of a 5YHLS. He was quite correct in saying that the development plan is the starting point for determining applications and that the weight to be attached to its policies is a matter for the decision taker. He conceded that the previous appeal decision was a relevant consideration in this case. His stance essentially that the number of dwellings coming forward from a scheme is relevant in the context of a housing under-supply was not unreasonable, despite his initial difficulty in admitting that delivery of housing in a situation where there is no 5YHLS is clearly an important benefit.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*Nick Fagan*

INSPECTOR