
Costs Decision

Site visit made on 6 June 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 17th August 2017

**Costs application in relation to Appeal Ref: APP/R0335/W/17/3168932
Land at The Yard (Brickfields), Chavey Down Road, Winkfield Row,
Bracknell, Berkshire RG42 7NY**

- 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 Howard Park Homes for a full award of costs against Bracknell Forest Borough Council.
 - The appeal was against the refusal of planning permission for is the change of use of the land for the siting of six residential park homes.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The Appellant submits that the Council acted unreasonably in refusing permission by stating that the proposal would result in an unsympathetic and uncharacteristic form of housing to the detriment of the character and appearance of the area. It is stated that there is no such prejudicial policy against residential caravans and in any event the local built character is predominated by bungalows. It is also stated that too little weight was given to the substantial shortfall in the Councils five year supply of housing, the need for affordable single storey homes for older people, the fact that the site is previously developed land with little environmental value, or giving consideration to the lawful duty under section 124 of the Housing and Planning Act 2016.
5. The Councils' Planning Committee were entitled to come to their own conclusions on the merits of the proposal and a decision which goes against officer advice is not a reason to give an award of costs in itself. However, a

key issue is whether the Council have provided sufficient evidence to substantiate their reasons for refusal at appeal.

6. In respect of the first reason for refusal, the Council have provided limited evidence to explain why the type of housing proposed is, in their view, unacceptable with the main point of contention being the increase in the density of the development as a result of the increase in the number of residential units when compared to a previous extant permission¹.
7. It is noted that the area has a number of bungalows and that there is no planning policy against park type homes. The Council clearly took account of the previously developed nature of the site, the extant permission, and that the Framework indicates that it should not be assumed that the whole of the curtilage should be developed.
8. Whilst in my decision I have found in favour of the Appellant in respect of the effect of the development on the character and appearance of the area, this is a matter of judgement on a subjective matter. Given the above, I am satisfied that the Council has provided sufficient evidence to substantiate the reason for refusal when the character and appearance matter is considered in isolation.
9. Turning to the issue of the substantial shortfall in the Councils five year supply of housing, the Council undertook a balancing exercise. Whilst it is not clear exactly how much weight was given to the benefits of the development, the amount of weight given is a matter for the decision maker. In this sense, the Council have clearly considered the matter and apportioned weight to the benefits of the proposal. Consequently, I consider that no unreasonable behaviour has occurred.
10. The duty under section 124 of the Housing and Planning Act 2016 relates to the local housing authority. Whilst the provision of a wide choice of homes should be provided, in this case, the Council did consider the mix of housing types which would result from the development in combination with the other parts of the extant planning permission for the wider site.
11. In relation to the second and third reasons for refusal, I am satisfied that the Council have provided sufficient evidence to substantiate these reasons. Furthermore, it is further noted at the time of the Council's decision, there was not a completed section 106 agreement in place. Consequently, I find that these reasons for refusal were well founded and no unreasonable behaviour has occurred in respect of these issues.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Chris Forrett

INSPECTOR

¹ 15/00200/FUL