

Costs Decision

Site visit made on 1 August 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 11th September 2017

Costs application in relation to Appeal Ref: APP/J1915/W/17/3172249 Land adjacent Beecroft Lane, Walken, Herts SG2 7PE

- 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 I Grey for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for the erection of 2no. two bedroomed dwellings.
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Decision

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

Reasons

2. The national Planning Practice Guidance (PPG) advises in paragraphs 29 and 30 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 applicant submits the Council has acted unreasonably with regards to paragraph 49 of the PPG and the substance of the matter under appeal on three main grounds. Firstly, that the Council prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Secondly, that the Council persisted in objections to a scheme or elements of a scheme which an Inspector had previously indicated to be acceptable. Finally, that the Council did not determine similar cases in a consistent manner.
4. A previous appeal decision for one dwelling was allowed at appeal in 2016¹. By the time that the application which led to this appeal was determined, the planning policy context had progressed. A pre-submission version of the East Herts District Plan ('the District Plan') had been published and a pre-submission consultation had been carried out on the Walkern Neighbourhood Plan (WNP). Paragraph 216 of the National Planning Policy Framework allows decision-takers to give weight to relevant policies in emerging plans according to a number of criteria including the stage of preparation.
5. It was evident from the officer's report that the Council accepted that policies in the existing East Herts Local Plan Second Review 2007 carried limited weight due to the housing land supply situation. The report made clear though that

¹ APP/J1915/W/15/3138282

emerging planning policies in the District Plan and WNP carried sufficient weight to rule against the appeal proposal. Although I gave limited weight to these emerging planning policies, and they were insufficient to weigh against the appeal proposal overall, the Council were entitled to come to a different view.

6. Moreover, the appeal proposal before me was for two dwellings instead of the one dwelling allowed at the previous appeal, and it was clear that the impacts of development were not identical. Although the officer's report notes the differences and expresses some concerns in terms of design, the Council did not persist in its objections to this element of the proposal. Regard was had to the previous Inspector's findings and the design elements of the scheme that were previously indicated to be acceptable.
7. For the above reasons, the Council has not prevented or delayed development which should clearly be permitted, or persisted in objections to a scheme which an Inspector has previously indicated to be acceptable, or not determined similar cases in a consistent manner. Therefore, no unreasonable behaviour has occurred on any of the grounds put forward by the applicant.

Conclusion

8. I have found that no unreasonable behaviour has occurred that has led to unnecessary or wasted expense in the appeal process. Therefore, no award of costs is made.

Tom Gilbert-Wooldridge

INSPECTOR