

Costs Decision

Site visit made on 16 October 2017

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 20 October 2017

Costs application in relation to Appeal Ref: APP/J0405/W/17/3179531 16 Buckland Road, Buckland HP22 5LP

- 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 Hayden Robson for a full award of costs against Aylesbury Vale District Council.
 - The appeal was made against the refusal of planning permission for the erection of 3 bedroom bungalow served by the approved new vehicular access off Lower Icknield Way.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may 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. The applicant considers that the Council has behaved unreasonably in misinterpreting the findings of an Inspector who considered a similar scheme on the appeal site¹ and in suggesting that the harm to the character and appearance of the area is a matter of principle that cannot be addressed. The applicant has, therefore, been put to unnecessary expense in pursuing an appeal which should not have been required.
3. The appellant takes issue with the Council's use of the phrase 'significantly harm the openness of the area' in its delegated report. The previous Inspector found that the proposal would 'diminish and erode its [the rural landscape's] open character. The same sentence continues 'and its openness to some degree'. In my view the term 'to some degree' refers to the effect of the proposal on the appearance, rather than on the openness of the rural landscape. Nevertheless, the Inspector does not use the term 'significantly' in his assessment of the effect on openness. To that extent the Council has gone beyond the previous Inspector's findings.
4. However, the Council's use of the term 'significantly' is limited to its assessment of the effect of the proposal on openness. Elsewhere in the delegated report it takes on board the Inspector's findings in respect of the limited impacts of the proposal. Contrary to the suggestion in the cost claim, the Council does not

¹ Appeal reference APP/J0405/W/16/3162326

conclude that the proposal would be significantly harmful to the character and appearance of the area overall. Consequently, whilst the Council's use of language in its assessment could be said to be lax, I consider that it does not amount to unreasonable behaviour.

5. With regard to the applicant's second point, whilst the Council has not referred to development plan policies to support of its position on the harm to the character and appearance of the area, in common with the previous Inspector, it has relied on the policies of the National Planning Policy Framework (the Framework). The identified harm arises from the erection of a new building on an essentially open site. It seems to me that this is a matter principle which could not be addressed through, for example, the use of conditions or minor amendments to the scheme.
6. Nevertheless, it is possible that other considerations, including the absence of a five year supply of housing land, may be found to outweigh the identified harm. However, the most up to date information available in this appeal indicates that the Council does have a five year supply. The Framework test of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal do not, therefore, apply.
7. From the applicant's point of view, it is unfortunate that the Council's position on housing land supply has changed since the appeal was submitted. However, there is nothing to suggest that the Council acted unreasonably in publishing the updated information when it did. The applicant had the opportunity to comment on the Council's revised position. It is widely accepted that planning decisions should be made on the basis on the most up to date information.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that a full award of costs is not justified.

Simon Warder

INSPECTOR