
Costs Decision

Site visit made on 11 December 2017

by J Ayres BA Hons, Solicitor

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

Decision date: 7th February 2018

Costs application in relation to Appeal Ref: APP/X0360/W/17/3181303 Land East of Finchampstead Road, Finchampstead North, Wokingham RG20 3HE

- 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 Gladman Developments Limited for a full award of costs against Wokingham Borough Council.
 - The appeal was against the refusal of planning permission for the change of use of land to Suitable Alternative Natural Greenspace (SANG) with associated landscaping works and parking.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Appellant submits that the Council has acted unreasonably in that it has gone against the advice of its officers without good reason and failed to substantiate their reason for refusal on the grounds of prematurity. The proposal complied with the development plan and should have been permitted. The necessary appeal has caused the appellant delay and unnecessary expense.
3. 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.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal in the appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate its reasoning. In this case the officers advised that there was no conflict between the proposal and the development plan. There is a planning application for housing on an adjacent site, with the Council, and the proposal before me will be a material consideration in the determination of that application. However, the application on the adjacent site should be considered separately. Each application must be determined on its own merits.

6. Little evidence has been put forward to support the reason for refusal and establish that the proposal would either be an unsustainable form of development, or that it would harm the character and appearance of the area. The Council's concerns relate to the relationship of this proposal to the adjacent land, which is the subject of a separate planning application. The Council has not provided any evidence to demonstrate that the proposal would be in conflict with its own development plan, or any national policies.
7. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy, and other material considerations, the development proposed should reasonably have been permitted. This is clear from my appeal decision. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Section 7(2) and Schedule 3 of the Countryside and Rights of Way Act 2000, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wokingham Borough Council shall pay to Gladman Developments Limited, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Wokingham Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J Ayres

INSPECTOR