



---

## Costs Decision

Site visit made on 15 October 2019

**by W Johnson BA(Hons) DipTP DipUDR MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 December 2019**

---

### **Costs application in relation to Appeal Ref: APP/A3655/W/19/3233027 Binkot, Englefield Road, Knaphill, Woking GU21 2EB**

- 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 Thameswey Developments for a full award of costs against Woking Borough Council.
  - The appeal was against the refusal of planning permission described as: 'The construction of four new two storey family dwellings on a vacant site'.
- 

### **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.
3. Paragraph 049 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failures to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant considers that the Council behaved unreasonably as it was clear that the proposed development was not contrary to any policies of the development plan or the National Planning Policy Framework. On balance, I find the first reason for refusal on the decision notice is one of a matter of judgement, which the applicant acknowledges. Additionally, the applicant acknowledges that the second reason for refusal could have been disposed of through the completion of a legal agreement.
5. However, the legal agreement before me was obviously not before the Council during the assessment of the application, as it is signed and dated after the decision was issued. Given the site history, including the previous application that was dismissed at appeal, I do not consider that the Council's requirement for a legal agreement to secure contributions to provide mitigation measures towards the Thames Basin Heaths Special Protection Area for a similar residential development to be unexpected.

6. The Council's reasons for refusal set out in the decision notice are complete, specific and relevant to the application. Additionally, I consider that the wording of the reasons for refusal not to represent unreasonable behaviour. The Council further supported their reasons for refusal with a detailed Officer Report (OR), and it was clearly aware of, and had regard to, recent appeal decisions<sup>1</sup> for, and adjacent to the site. The OR expanded on the reasons for refusal, identified the issues and described the reasons why the Council considered the proposed development to be unacceptable.
7. I have noted reference by both parties to several Judgments relating to housing land supply and unreasonable behaviour, which I have noted. However, whilst I do not agree with the conclusion that the Council reached in refusing the application, I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

### **Conclusion**

8. On the basis of the evidence before me, I conclude that it has not been demonstrated that the Council's behaviour caused unnecessary or wasted expense in so far as an award of costs could be justified. I therefore determine that the costs application should fail and no award is made.

*W Johnson*

INSPECTOR

---

<sup>1</sup> APP/A3655/A/14/2228214 and APP/A3655/W/18/3202232