
Costs Decision

Site visit made on 17 February 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 May 2020

Costs application in relation to Appeal Ref: APP/N1730/W/19/3240725 Albion Yard, Hook Road, North Warnborough, Hook RG29 1EU

- 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 and Mrs J E Champion, Ms B Champion, Mr A J Champion and Mr and Mrs L Dorman for an award of costs against Hart District Council.
 - The appeal was against the refusal of planning permission for erection of ten dwellings (two 1 bed, four 2 bed, three 5 bed, one 6 bed) four detached cart shed garages and associated site works with plots 1-4 being self-build by applicants.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process.
4. Paragraph 049 of the Guidance states that examples of unreasonable behaviour by local planning authorities which may give rise to a substantive award of costs 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.
5. The applicant asserts that the Council has not correctly assessed the proposal against the relevant policies of the Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 (HDLP) and the Odiham and North Warnborough Neighbourhood Plan 2014-2032 (ONWNP). In particular, in respect of the principle of the residential development of the site, the applicant states that the Council's starting point was the negatively worded HDLP Policy RUR2 (Development in the Open Countryside - General), rather than Policy RUR20 (Housing in Rural Settlements) and Policy 2 of the ONWNP, which specifically allocates the appeal

- site for housing development, and that reference was not made to Policy 1 (Spatial Plan for the Parish) of the ONWNP. As such, the applicant contends that the Council failed to acknowledge the presumption in favour of the development.
6. The applicant also contends that the Council incorrectly interpreted ONWNP Policy 2, by relying on the indicative sketch plan accompanying the Policy in its consideration of the impact of the development upon the conservation area and listed buildings, requiring adherence with the indicative layout when there is no policy requirement for such.
 7. I find that the reason for refusal as set out in the decision notice is complete, precise, specific and relevant to the application. It clearly sets out the policies of the ONWNP and HDLP against which the Council considers the proposal would be in conflict. Notwithstanding the mention of Policy RUR2, rather than RUR20, in the Officer Report, this has not had a determinative impact on the decision. It is clear that the Council's starting point was that the site is an allocated housing site, and that the application has been assessed against the criteria of the relevant ONWNP Policy 2. The refusal reason has been adequately substantiated by the Council in its Officer Report and Statement of Case. These documents demonstrate why the Council consider that the proposal would not accord with ONWNP Policies 2, 5, 7 and 8 and Saved Policy CON13 of the HDLP.
 8. Having regard to the Council's interpretation of ONWNP Policy 2, the Council's Officer Report and Statement of Case confirm that the Council do not expect the development to strictly adhere to the indicative layout, but rather to the criteria listed under part iv of the Policy and the design principles incorporated within the indicative sketch plan.
 9. The applicant has also expressed concerns regarding poor communication with the Council during the application process, and that the Council did not deal with the application in accordance with the National Planning Policy Framework (the Framework), which encourages positive and proactive working between the parties in an attempt to address any outstanding issues prior to refusing planning permission. The applicant also considers that there was a lack of consistency between the manner in which the Council dealt with the appeal planning application and other applications relating to nearby schemes where Council officers facilitated discussion with applicants/agents.
 10. The Council, in its rebuttal, has advised that it has followed its 'Codes and Protocols' for dealing with planning applications contained within its Constitution when determining the appeal application and the other applications referred to by the applicant. In respect of the appeal scheme, the Council refers to discussions held between the parties, the submission of additional information by the applicant to address the comments of various consultees, re-consultation with consultees, and the agreement of an extension of time to determine the application. The Council has also confirmed that the applicant did not seek pre-application advice, as advocated in the Framework.
 11. Therefore, I do not consider that the Council failed to properly consider the application or evaluate the merits of the scheme against the relevant development plan policies. The Council was entitled to refuse the application and defend the appeal and has not acted unreasonably in doing so. Therefore, the appeal could not have been avoided.

12. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Leonard

INSPECTOR