



Costs Decision

Site visit made on 17 March 2020

by Christopher Butler BA(Hons) PG Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2020

Costs application in relation to Appeal Ref: APP/P1940/W/19/3229189 Glenwood, Harthall Lane, Kings Langley WD4 8JN

- 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 Kedgling Developments Ltd for a full award of costs against Three Rivers District Council.
 - The appeal was against the refusal of planning permission for an outline application (with all matters reserved) for the construction of up to five residential dwellings.
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Decision

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

Reasons

2. The 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 expense in the appeal process.
3. The appellant's claim for an award of costs is made on substantive grounds. With reference to specific parts of the Council's evidence, the appellant argues that the Council has failed to substantiate their reasoning and have relied on vague, generalised or inaccurate assertions about the proposal's impact that are unsupported by any objective analysis. The PPG indicates that these are grounds that can lead to an award of costs against the Council.
4. The appellant claims that the Council sought to remove the 'tilted balance' from operation by use of "Green Belt legislation" (sic). Whilst the presumption in favour of sustainable development applies, the Framework is clear that permission should be granted unless *"the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed"*. Footnote 6 of the Framework sets out what are protected areas or assets of particular importance and these include areas designated as Green Belt.
5. From the evidence before me, it is clear that the development would amount to inappropriate development within the Green Belt, which would cause harm to its openness and conflict with the purpose of including land within it. Therefore, I do not agree that the Council has sought to remove the "tilted balance", as policies in the Framework provide clear reasons for refusing the development proposed. As such, the Council has not acted unreasonably in this regard.

6. The appellant further claims that the Council's concerns regarding the character of the area are not based on fact, and that they sought to misrepresent the area. I do not agree. The Council's case regarding character is understandable and, whilst noting the application was made in outline with all matters reserved, they focus on the developments potential impact on the area. From the evidence before me, I do not consider that the building line of adjoining development, nor whether properties in the vicinity of the site were single or two storeys in height, were determinative factors in the Council's conclusions on this issue. My decision is clear that the development would be visible and, bearing the above in mind, I consider the Council raised legitimate concerns, in an adequate manner, and did not act unreasonably in relation to this issue.
7. Turning to whether the Council were justified in seeking an affordable housing contribution from the development, despite the proposal being on a small/medium sized residential development site, the Council have justified why affordable housing is sought on residential developments where there is a net increase of 1 dwelling or more.
8. The Council's policy on affordable housing is part of the formally adopted Development Plan and that policy was reviewed in the light of the Ministerial Written Statement, with the Council finding justifiable reasons as to why it should continue to pursue the policy. The Council's case was clear and the evidence before me led me to conclude that their approach in regard to applying their adopted affordable housing policy is justified.
9. With regard to the Council's approach to securing planning obligations, it is clear that no planning obligation was submitted as part of the outline planning application or as part of the appeal. The appellant's opinion that this matter could be resolved at a later stage in the planning process is noted. However, this is not the case, as set out in my decision, and thus the Council were justified in seeking a planning obligation securing affordable housing, or an off-site contribution to the same, at the outline submission stage. The Council did not act unreasonably in this regard.

Conclusion

10. In conclusion of all of the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and no award is made in this regard.

Christopher Butler

INSPECTOR