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## Costs Decision

Site visit made on 13 April 2021

**by Benjamin Clarke BA (Hons.) MSc MRTPI**

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

**Decision date: Saturday, 08 May 2021**

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### **Costs application in relation to Appeal Ref: APP/N3020/W/20/3263437 Land off Shelt Hill, Woodborough NG14 6DG**

- 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 Adrian Sykes (Skye Property Group Ltd) for a full award of costs against Gedling Borough Council.
  - The appeal was against the refusal of planning permission for an outline application (access and layout committed) for the erection of nine dwellings (Rural exception site with five affordable and four self-build open market dwellings) (Departure from the development plan).
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### **Decision**

1. The application is refused.

### **Reasons**

2. The Planning Practice Guidance (the 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. Local Planning Authorities are encouraged, through the PPG, to exercise their development management responsibilities by relying only on reasons which stand up to scrutiny on the planning merits of the case.
3. From the evidence before me, I have identified four main issues. These being whether the proposal represents an inappropriate development in the Green Belt; the effect on the openness of the Green Belt; the effect of the development upon the character and appearance of the surrounding area; and whether the proposed development would provide appropriate provision for affordable housing and off-site public open space
4. In the instance of whether the proposed development is inappropriate in the Green Belt and the effect on openness, my attention has been drawn to relevant planning policies and guidance, including the National Planning Policy Framework (the Framework), which specify the types of development that might be considered not inappropriate in the Green Belt. Furthermore, the Council outlined through their submitted documents how they reached the conclusions that these exceptions did not apply to the proposed development. The Council has also drawn my attention to a policy that is relevant to rural exception sites.
5. I acknowledge that the appellant disagrees with the Council as to whether the appeal proposal would be in a settlement. However, in the absence of an agreed definition of a settlement, a judgement needs to be made based upon

- the individual circumstances of a proposal. In this case, the Council has adequately outlined the reasons why it believes that the site is not within a settlement. Accordingly, this is not unreasonable behaviour.
6. The proposed development would add to the local housing supply, as set out in my appeal decision. This would be of some benefit. However, in the case of developments in the Green Belt, it is necessary to balance any such benefits against any harm to the Green Belt, which the Framework says must be given significant weight. Given that there is some evidence that the Council undertook this balancing exercise, I am therefore unable to identify any unreasonable behaviour as this is effectively a matter of planning judgement.
  7. Although I have disagreed with the Council regarding the application of Policy LPD36 of the Local Planning Document (2018) in respect of the affordable housing element of the proposed development, it is clear, in the Framework, that one of the criteria for a development to not be inappropriate with the Green Belt is affordable housing. Therefore, there must be a mechanism for securing this provision. In result, the lack of a sound Section 106 Agreement would mean that the affordable housing could not be secured and, in consequence, harm to the Green Belt would emanate.
  8. In addition, the creation of additional dwellings would increase the usage of off-site public open space. Given that a financial contribution would be required, it is necessary for this to be secured through a legal agreement.
  9. Therefore, I am unable to find evidence that the Council acted unreasonably in refusing the planning application on the basis that the affordable housing and the public open space provision has not been secured.
  10. In respect of the effects of the development upon the character and appearance of the surrounding area and the openness of the Green Belt, the Council has outlined a summary of the character of the site and the surrounding area and has described how it considers this would be eroded by the proposed development. The Council also outlined how it concluded that openness had been eroded. In consequence, I find that this approach has been reasonable and that the reason for the refusal of planning permission has been adequately justified.
  11. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such, I do not believe that the appellant was put to unnecessary or wasted expense. Therefore, an award of costs is not justified.

## **Conclusion**

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

*Benjamin Clarke*

INSPECTOR