



Costs Decision

Site visit made on 18 May 2021

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 21st June 2021

Costs application in relation to Appeal Ref: APP/R1038/W/21/3269537 Land east of Sycamore House, Hemming Green, Old Brampton, Derbyshire S42 7JQ

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Hunt, Coverland UK Ltd for an award of costs against North East Derbyshire District Council.
 - The appeal was against the refusal of planning permission for outline application for a maximum of 2 No. detached dwellings (all matters reserved).
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Decision

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

Reasons

2. 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 application centres on the Council's claim that the appellant pursued an appeal which has no reasonable chance of succeeding.
4. PPG indicates that appellants will be at risk of an award being made against them if they pursue an appeal which has no reasonable prospect of succeeding.
5. The appellant's questioning of the consistency of emerging Local Plan Policy SS10 with the National Planning Policy Framework (the Framework) is not the dominant plank of their case. Analysis of the consistency of adopted Local Plan policies with the Framework also features, as does consideration of definitions of the village boundary and limited infilling which are central to the case.
6. It will be clear from my decision that I have come to a different view from the appellant regarding whether the proposal would constitute limited infilling in a village.
7. Nevertheless, I see evidence in the appellant's Appeal Statement of Case (ASOC) of their rationale regarding definition of the village boundary and limited infilling, which are not defined in the National Planning Policy Framework and, case law shows, are matters of judgement, having regard to factors including the situation 'on the ground'.
8. I also see evidence in the ASOC of the appellant's rationale regarding their questioning of the effectiveness of the Local Plan's spatial strategy.

9. As such, the appellant was entitled to reach their view regarding the above matters.
10. To conclude, I find that it was not inherently unreasonable for the appellant to pursue an appeal against the refusal of planning permission.
11. As a result, it follows that I cannot agree that the appellant has acted unreasonably in this case.

Conclusion

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

William Cooper

INSPECTOR