



Costs Decision

Site visit made on 31 August 2021

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2021

Costs application in relation to Appeal Ref: APP/U1430/W/20/3265995 Former Market Garden, Lower Waites Lane, Farilright, East Sussex TN35 4DB

- 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 Gemselect Ltd for an award of costs against Rother District Council.
 - The appeal was against the refusal of the Council to issue a notice of their decision within the prescribed period on an application for the construction of 16 houses together with associated parking, access and wildlife area.
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Decision

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

Reasons

2. Paragraph 30 of the national *Planning Practice Guidance* (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Applicant states the following grounds for the application: that there is no merit to the Council's reasons for refusal in the Decision Notice, dated 20 July 2020, following a previous grant of permission for a very similar scheme on the appeal site in 2018, and that the Council did not correctly or adequately take into account newly introduced Policies contained within the Rother District Council Development and Site Allocations Local Plan (DaSA).
4. However, the Council contend that following the earlier permission for the site that there were significant material changes to local planning policy as a consequence of the adoption of the DaSA in December 2019, specifically Policy DHG7. Consequently, the Council's Planning Committee took into account, amongst other things including viability, Policy DHG7 as part of the revised application, which was refused.
5. I have considered the submitted evidence before me, including the DaSA, and the reasons for refusal set out in the Council's Decision Notice, which I find are complete, precise, specific and relevant to the application before me. As such, notwithstanding the change to the elected committee between the two applications, from the evidence before me, the Council has not been inconsistent in its decision making.

6. To the contrary, as is correct, the new planning committee were entitled to come to their own view on the acceptability of the revised proposal when considered against new or other relevant policies, including those contained within the *National Planning Policy Framework*.
7. Indeed, as the Council were carrying out the normal activities associated with a planning 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. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

J E JOLLY

INSPECTOR