
Costs Decision

Site visit made on 12 October 2021

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th November 2021

**Costs application in relation to Appeal Ref: APP/D1265/W/21/3277119
Land to the South of 8-10 Ashbury Cottages, Gore Pit To Emley Lane,
Hinton Martell BH21 7HG**

- 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 John Whittle (Guants Heritage & Listed Buildings Ltd) for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission to demolish existing storage building and erect a replacement building for storage / office space.
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Decision

1. The application for an award of costs 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.
3. The applicant contends that the Council has acted unreasonably, by failing to give due weight to national policy, which is more recent than the development plan policies on which it relied, and by failing to address the inconsistency between the two. The Council's delegated report did not refer to Chapter 6 of the National Planning Policy Framework (the Framework), but I note that the list of relevant sections in the report is not a closed list, and the preamble sets out the Framework's overall presumption in favour of sustainable development. Furthermore, the Council considers that the relevant policies of the development plan are consistent with the advice in the Framework regarding proposals for rural economic development.
4. The Framework clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. More recent national advice may be a material consideration that indicates that the development plan should not be followed. In this case, however, the Council does not consider there to be any inconsistency between national advice and development plan policy. Consequently, it was not unreasonable for the Council to determine the application based primarily on its interpretation of the relevant development plan policies. The inclusion of references to Chapter 6 of the Framework in the delegated report would have been unlikely to result in a different outcome.

5. In my decision, I found that the proposals were in broad accordance with both national advice and development plan policies, insofar as the location of rural employment buildings was concerned. Nevertheless, I dismissed the appeal due to the impact of the development on the Green Belt. The Council's approach to the policies and advice relating to rural employment buildings did not, therefore, prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations.
6. The PPG advises that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal. In this regard, the applicant argues that the Council did not produce evidence to demonstrate that the increase in the height of the proposed building would result in demonstrable harm to the openness of the Green Belt. The Council relied on the evidence in its delegated report, which set out its reasoning for concluding that the proposal did not comply with Policy GB7 of the Local Plan. It also explained why it concluded that the proposal would be inappropriate development with reference paragraph 145 of the Framework. It explained that the harm to openness resulted from the increase in the volume of the building and its separation from the dominant building line of the village.
7. It will be seen from my decision, that I concluded that the new building would be inappropriate development, which would be harmful to the openness of the Green Belt. It follows that I am satisfied that the Council's evidence in this regard was sufficient to substantiate its reason for refusal.
8. The PPG advises that, where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Nick Davies

INSPECTOR