
Costs Decision

Site visit made on 20 July 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2022

Costs application in relation to Appeal Ref: APP/M1005/W/22/3291303 Land adjacent to Christmas Cottage, Church Lane, Kirk Langley DE6 4NG

- 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 Thompson for a full award of costs against Amber Valley Borough Council.
 - The appeal was against the refusal of planning permission for Outline Permission sought for the principle of constructing a new dwelling with all matters reserved.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities include preventing or delaying development which should clearly be permitted.
4. The appellant considers that the planning history of the site and a neighbouring site and local and national policy were clear that the development should be permitted and the Council behaved unreasonably by refusing the application. The Council contends that the officer report clearly sets out the reasoning behind their decision to refuse the application.
5. The reasons for refusal on the application are extensive but are complete, specific and relevant to the application. Further, detailed justification is contained within the accompanying officer report.
6. I agree with the Council that the question of whether the site was within the built framework of Kirk Langley is to be considered against the current development plan which does not precisely define the built framework. The Council's report clearly distinguishes the circumstances of this application with that on the adjacent site due to the changes in the five year supply of deliverable housing land that underpinned the extant permission on that site. In reaching their conclusion on the effect of the development on the Conservation Area, they had regard to the professional advice of their Heritage

Consultant and to the detailed information set out in the Kirk Langley Neighbourhood Development Plan.

7. While I did not agree with the Council's conclusions and decision, their report was thorough, supported by analysis and demonstrated a reasonable exercise of planning judgement.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

J Downs

INSPECTOR