



Costs Decision

Site visit made on 9 August 2022

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2022

Costs application in relation to Appeal Ref: APP/J1915/W/22/3297661 Land at Railway Meadow, London Road, Spellbrook CM23 4AU

- 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 Mrs Ran Yao for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for the erection of seven infill dwellings including associated vehicular access, landscaping and infrastructure.
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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. 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. In this instance, the Council cited two development plan policies that it considered relevant to the determination of the planning application. The evidence before me outlined the reasons why these policies were considered relevant and how they would be breached by the proposal.
4. In addition, the evidence before me outlined the harm that the Council considered would arise should the development proceed. In addition, the Council undertook a balancing exercise regarding the harm that would arise from the proposed development and the benefits that would also emanate. This is comparable to the approach that I have taken in deciding the appeal.
5. Whilst I have disagreed with the conclusions reached by the Council in this instance, I am unable to find that this approach was unreasonable.
6. The appellant, prior to the planning application being determined, submitted documentation to the Council outlining an alternative policy that it considered the proposal should be assessed against.
7. In this case, the Council clearly outlined the reasons why it considered that Policy GBR1 was not directly relevant to the concerns raised regarding the suitability of the appeal site as a location for the proposed residential development. The weight that is to be given to matters such as this is a matter

of planning judgement and, therefore, I do not believe that this amounts to unreasonable behaviour on behalf of the Council.

8. The applicant for costs has suggested that the Council has not considered similar applications for planning permission on a comparable basis. However, one of the applications referenced was considered under now superseded planning policies. In result, it is not unreasonable behaviour that having assessed a different proposal against the requirements of amended planning policies, a contrasting approach might be reached. This is not evidence of unreasonable behaviour, even though it related to the same site as the appeal before me.
9. In the case of the other decision, which relates to a different location to the appeal site, the Council has outlined the reasons why it has reached a different decision. As this position has been satisfactorily explained, I do not believe it amounts to unreasonable behaviour that has resulted in the applicant incurring unnecessary or wasted expense in pursuing the appeal process.
10. In result, 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

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

Benjamin Clarke

INSPECTOR