



Costs Decision

Site visit made on 1 September 2022

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2022

Costs application in relation to Appeal Ref: APP/C1760/W/22/3293740 Land to the west of Rose Cottage, Houghton, Hampshire SO20 6LH

- 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 Test Valley Borough Council for a full award of costs against the Trustees of The Captain Busk Grandchildren Settlement.
 - The appeal was against the refusal of planning permission for a development described as 'Creation of 8no. self-build dwellings with landscaping, parking and access. Demolition of existing stable'.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, the Planning Practice Guidance (PPG) states that an award of costs may only be made 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 appellant has introduced additional evidence during the appeal process to address the Houghton Neighbourhood Plan being made (and the sites designation as a Local Green Space) and the publication of up-to-date guidance from Natural England on nitrate neutrality. However, these submissions were in relation to material considerations that came to light after the appeal was submitted. The Council's reasons for refusal did not even refer to the former. As such, it was not unreasonable for the appellant to seek to address them.
4. The Houghton Neighbourhood Plan designates the appeal site as a Local Green Space (LGS) but Policy HTN9 is not written in a way that prohibits development. In fact, it affords the LGS the same protection as Green Belt land. The appellant was entitled to make a case that the proposal would not be inappropriate development. The case made was well articulated, raised some sound points and referred to other appeal decisions as a means of steering their assessment. The proposal was not clearly unacceptable on this point and therefore it would be incorrect to say the appeal had no reasonable prospect of success. Many of the matters in the appeal turn on reasoned planning judgment.
5. The planning obligation was submitted unhelpfully late in the process, but the Council would have been put to the expense of reviewing this document even if it had been submitted sooner. The same applies to the biodiversity surveys.

As a result, the Council has not been put to unnecessary expense in considering this evidence.

6. In conclusion, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not occurred. The application for costs is therefore refused.

Graham Chamberlain
INSPECTOR