
Costs Decision

Site visit made on 28 June 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2023

Costs application in relation to Appeal Ref: APP/R5510/W/22/3306805 Northwood Golf Club, Rickmansworth Road, Northwood HA6 2QW

- 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 Ray Grant for a full award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against the refusal of planning permission for a greenkeepers storage facility/stand alone unit.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded 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 applicant considers that the Council unreasonably refused the proposal and in doing so wrongly assessed the scheme by reference to paragraph 149(d) of the National Planning Policy Framework (the Framework). It is contended that had they properly considered the proposal against paragraph 149(b) of the Framework, then they ought to have approved the planning application or at least a resubmission, thereby avoiding the need for an appeal.
4. PPG¹ further advises that local planning authorities are required to behave reasonably in relation to substantive matters at the appeal, and a list of examples of unreasonable behaviour is given. This includes preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
5. It will be seen from my decision that I found the proposed building would not be inappropriate development in the Green Belt because it fell within the remit of the exception in paragraph 149(b) of the Framework. Nevertheless, I identified the various components of paragraph 149(b) that needed to be satisfied. One of these is that the proposed facility would preserve the openness of the Green Belt. This test requires the exercise of judgement.

¹ Paragraph: 049 Reference ID: 16-049-20140306

6. The Council's appeal statement does refer to paragraph 149(b) and goes on to confirm their view that owing to its size, scale, height, massing and appearance, the proposed building would have a harmful impact upon the openness of the Green Belt.
7. Nevertheless, I accept that the Council's reasoning frequently refers to the proposed building being larger than the existing buildings that would be demolished at the appeal site. Moreover, direct reference is made to paragraph 149(d), a different exception within the Framework which relates to replacement buildings, and one which did not form part of the appellant's case. Ostensibly, this reference is superfluous unless the Council did not accept the applicant's argument made under paragraph 149(b).
8. As such, there are some parts of the Council's case where it is not clear whether they fully understand that the sub-paragraphs of paragraph 149 of the Framework setting out the exceptions operate separately and ought not to be conflated.
9. Even so, the balance of evidence before me does not clearly establish that, irrespective of the matter of the removal of existing buildings, the Council would have found that the proposed building would preserve the openness of the Green Belt under paragraph 149(b) of the Framework. Given the concerns regarding visual prominence and the impact on openness expressed by the Council, I am not convinced their concerns stem solely from a comparative exercise with the buildings to be removed.
10. In any event, I do not consider that the judgement to be exercised under paragraph 149(b), which involved several relevant factors, could only reasonably have concluded that the proposed building was not inappropriate development in the Green Belt. Given the judgement required, the outcome was not inevitable.
11. Therefore, I am not persuaded that it is demonstrated that the development should clearly have been permitted having regard to national policy. Neither am I convinced that had the Council exercised greater precision and clarity in their reasoning, then they would have concluded differently. As such, it is not shown that the appeal would have been avoided.

Conclusion

12. Accordingly, it has not been demonstrated that the Council has behaved unreasonably within the meaning of the PPG. It follows that the applicant was not put to unnecessary or wasted expense in testing the Council's position at appeal.

Helen O'Connor

Inspector