The Planning Inspectorate

Costs Decision

Site visit made on 11 April 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 August 2023

Costs application in relation to Appeal Ref: APP/N1920/W/22/3301054
Willow View, Kendal Hall Farm, Watling Street, Radlett, WD7 7LH

- 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 Gerry Powels for a full award of costs against Hertsmere Borough Council.
- The appeal was against the refusal of planning permission for the demolition of existing mobile home/ancillary store buildings and erection of new detached 2 storey 4-bed dwelling.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (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 appellant claims that the Local Planning Authority (LPA) has not had full regard to Government policy, moreover that their interpretation of paragraph 149 of the National Planning Policy Framework (the Framework) was incorrect and they should have assessed the proposal collectively against the exceptions d) and g) set out within it, instead of assessing them individually. The appellant asserts that had the LPA done this, it would have found that the proposal complied with this paragraph and the development would have been granted planning permission. As such this appeal could have been avoided.

4. Although not statute or part of the development plan, the Framework is an important material consideration. Paragraph 149 of the Framework seeks to protect the Green Belt from inappropriate development, it is in essence a policy of restraint. It cites exceptions to this, which are listed a) - g). The paragraph does not include the word 'or' between these exceptions, but neither does the paragraph expressly indicate support for combining these exceptions. The exceptions cater for a range of different development types, and situations.

5. The applicant's point that the proposal can comply with more than one exception is correct, but equally to comply with only one exception would also mean the proposal would not be inappropriate development. It is not unreasonable to assess the proposals against the relevant exceptions individually given the construction of paragraph 149 and the clear differences between the exceptions, particularly given that criteria d) and g) are so different in their scope. Whilst it is possible for the exceptions in the paragraph

to be read together, it is a judgement for the decision maker to make depending on the individual merits of the case.

6. In this case the appeal has been dismissed and is the subject of a separate decision, which found that the proposal did not individually or collectively meet exceptions d) or g) of paragraph 149 of the Framework. Whilst the Council had a narrow interpretation of paragraph 149, I am satisfied that the Council's interpretation of Government policy in relation to the appeal proposal in this case was not misunderstood and they were entitled to make that decision. Furthermore, I am satisfied that such a decision has not resulted in an unnecessary appeal.

7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

A Hunter

INSPECTOR