
Costs Decision

Site visit made on 23 August 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 September 2023

Costs application in relation to Appeal Ref: APP/M3645/W/22/3311896 29 West Street, Dormansland RH7 6QP

- 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 Aaron Green for a full award of costs against Tandridge District Council.
 - The appeal was against the refusal of planning permission for erection of replacement dwelling.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers that the Council failed to properly evaluate the proposal and did not determine the application in a reasonable manner through a lack of due diligence.
4. It is the applicant's view that the Council has misinterpreted its own Development Plan policies by determining the proposal as being within the Green Belt proper, where general Green Belt policy would apply, when the site is located in a Defined Village in the Green Belt. Also, that the Council did not reasonably substantiate its view that the proposal would give rise to any demonstrable harm.
5. In determining the appeal, I considered the applicant's evidence on this matter, including examples of the Council's assessment of other development in Dormansland village, and concluded there to be no substantive evidence to suggest that general Green Belt policy or that Chapter 13 of the National Planning Policy Framework (the Framework) would not apply to Defined Villages. Moreover, the extract from the Planning Policy Map set out in the appellant's statement of case showed Dormansland

village, including the appeal site, to be washed over by Green Belt and for Policy DP10 of the Local Plan to be applicable.

6. The Decision Notice clearly sets out the reasons for refusal and which policies the proposal would conflict with, which are adequately substantiated by the Council in its Officer Report. The Officer Report refers to Paragraph 148 of the Framework that affords substantial weight to any harm to the Green Belt. The Green Belt section of the report sets out volume calculations and states the increase in volume to be unacceptable in this regard. It concludes the proposed development would constitute inappropriate development in the Green Belt, would have a significant impact upon the openness of the Green Belt and that no very special circumstances exist to clearly outweigh the harm that would be caused. It also identifies conflict with Policies DP10 and DP12 of the Tandridge District Local Plan: Part 2 – Detailed Policies (2014).
7. Following consideration of the application on its merits alone, I have come to a similar conclusion. Therefore, while I appreciate that the outcome of the application will have been a disappointment to the applicant, the Council was not unreasonable in coming to its decision. Neither did the Council fail to reasonably substantiate its view that the proposal would give rise to demonstrable harm.
8. The applicant also contends that the reason for refusal concerning drainage could be addressed through the imposition of conditions. While I agree, I note that the Council had received an objection from the Environment Agency, a statutory consultee, due to insufficient information on foul drainage. Overall, while withdrawal of any reason for refusal may result in an award of costs, given the other fundamental reasons that the application was being refused, I consider that an appeal could not have been avoided. There is also no substantive evidence before me that the applicant incurred any additional expense in the appeal process as a result.
9. For the reasons set out above, I conclude that it has not been demonstrated that the Council failed to properly evaluate the proposal and did not determine the application in a reasonable manner, nor that this has resulted in an appeal which would not have otherwise been necessary. Furthermore, there is no evidence of any unnecessary or wasted expense in the appeal process. Given this, and having regard to all other matters raised, an award for costs is therefore not justified.

Hannah Guest

INSPECTOR