
Costs Decision

Site visit made on 17 November 2023

by C Rose BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2024

Costs application in relation to Appeal Ref: APP/D1265/W/23/3322363 Land West of New Manor Farm, Emley Lane, Hinton Martell BH21 7HE

- 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 G Saunders for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for erection of 2 no. dwellings and associated parking.
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Decision

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

Reasons

2. 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 applicant considers that the Council acted unreasonably as they believe there is no justification to refuse the application. This is on the basis of a previous appeal decision¹ that determined that the proposal was acceptable in relation to the Green Belt with circumstances unchanged. There was no five-year supply of deliverable housing sites at that time, and this is still the case with paragraph 11.d) of the National Planning Policy Framework (the Framework) triggered. Furthermore, the Council are relying upon another appeal decision² which has no bearing on the appeal.
4. In response, the Council disputes that it has acted unreasonably. The Council states that at the time of the decision it had a five-year supply of deliverable housing sites as set out in the officer report and that the applicant could have chosen to submit a new application but has chosen to appeal. The Council further state that the other appeal decision post-dates the previous appeal decision on the site and as a result is a material consideration.
5. In response to this, the applicant states that paragraph 17 of the previous appeal decision is most relevant with the Inspector determining that the proposal did not constitute inappropriate development. This outweighs any conflict with Policy KS2 of the Local Plan yet the Council continue to reference it. They further state that the other appeal decision² is irrelevant.

¹ APP/D1265/W/20/3256310 (the previous appeal decision)

² APP/D1265/W/20/3315231 (the other appeal decision)

6. The Council determined the application having regard to the previous appeal decision on the site and with regard to the other appeal decision on a different site that is a material consideration. It also had regard to policies in the development plan and to the Framework and made its decision in light of having a five-year supply of deliverable housing sites at the time of the decision. Given the changed housing land supply situation and the other appeal decision, the Council were entitled to reach a different decision to the Inspector dealing with the previous appeal.
7. Following the determination of the planning application, the Council could no longer demonstrate a five-year supply of deliverable housing sites. The Council acknowledge this in its evidence and point out that in the circumstances the applicant could have submitted a further planning application for consideration. In light of this and the changing housing land supply position, I do not find that the Council failed to justify its decision to refuse planning permission or relied upon an appeal decision that had no bearing on the proposal.
8. In light of the above, I do not find that the Council acted unreasonably and justified its decision.
9. Accordingly, I find that unreasonable behaviour in procedural or substantive terms resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
10. The application for an award of costs must therefore fail.

C Rose

INSPECTOR