



Costs Decision

Site visit made on 29 May 2024

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2024

Costs application in relation to Appeal Ref: APP/M1005/W/24/3338758 Land off Main Road, Pentrich, Derbyshire DE5 3RE

- 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 & Mrs Stokes for a full award of costs against Amber Valley Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for a four bedroom detached dwelling.
-

Decision

1. The application for a full award of costs is allowed, in the terms set out below.

Reasons

2. Paragraph 030 of the Planning Practice Guidance (the PPG) indicates 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. Examples of unreasonable behaviour by Local Planning Authorities are set out in Paragraph 049 of the PPG.
4. The appellant has stated the Council acted unreasonably by refusing a planning application which clearly falls in the list of acceptable Green Belt development as set out in the National Planning Policy Framework and refused the application despite the contrary evidence from the Officer. As such as it was an acceptable development, which did not need to demonstrate very special circumstances.
5. The Council argue that Members gave the application full consideration and did not consider the application was an infill development and note there is no legal definition of what is "infill".
6. In this case the Council's officer had recommended the application for approval. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council must clearly demonstrate why a proposal is unacceptable on planning grounds and provide clear evidence to substantiate that reasoning.
7. The Council have determined that the application does not constitute infill development, but the reasoning is incomplete as to why that is not the case. I find that the site clearly meets the Green Belt guidance as set out in the Framework for exemptions for Green Belt development, and I find little to

substantiate the alternative position of Members in this instance that could be given any significant weight.

8. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in relation to the proposed scheme. The Council failed to produce evidence to substantiate that reason for refusal resulting in vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis. For this reason, and having regard to all other matters raised, a full award for costs in unnecessarily bringing the appeal is therefore justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Amber Valley Borough Council District Council shall pay to Mr & Mrs Stokes the costs of the appeal proceedings; such costs to be assessed in the Senior Courts Costs Centre if not agreed. The proceedings concerned an appeal described in the heading of this decision.
10. Mr & Mrs Stokes are now invited to submit to Amber Valley Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Paul Cooper

INSPECTOR