



Costs Decision

Site visit made on 29 August 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Costs application in relation to Appeal Ref: APP/G5180/W/23/3336061 Lone Barn Farm, East Hall Road, Orpington BR5 4EZ

- 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 Watts Farms Ltd for a full award of costs against the Council of the London Borough of Bromley.
- The appeal was against the refusal of outline planning permission for the demolition of existing buildings and the residential redevelopment of the site with associated vehicular access (matters relating to scale, landscaping, appearance and layout reserved for future consideration).

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 PPG outlines that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. One example of such unreasonable behaviour is 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.
4. The applicant considers that the Council acted unreasonably in refusing outline planning permission. In my decision, I have concurred with the Council's approach to considering the proposed development against the relevant sections of the National Planning Policy Framework (2023) (the Framework) in relation to the Green Belt. I have found the Council's assessment to be well reasoned and argued. Although I have disagreed with other elements of the Council's assessment, these are in relation to matters of planning judgement.
5. Paragraph 6.8 of the Council's Statement states that 'any outline scheme to be approved at the outset should demonstrate that it is appropriate in the Green Belt. To seek to address the matter of appropriateness later in the process, at reserved matters stage, would be misguided and defy established planning practice.'

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6. In a similar manner I have concluded that on the basis of the details before me, I am unable to conclude that the proposed development would not be inappropriate development in the Green Belt. This is because for this to be the case, it must be established at this stage that it would not have a greater impact on the openness of the Green Belt, which given the submitted details, it has not been demonstrated. It was therefore not unreasonable for the Council to refuse planning permission on the basis that they did not consider the proposed development was not inappropriate development in the Green Belt.
 7. I have found that in terms of character and appearance, as a matter of principle, a residential development would not be unacceptable subject to an appropriate scheme coming forward which reflected the low-rise rural character of the site and its surroundings. Although I have disagreed with the Council's finding on this matter, the Council adequately substantiated their reasoning why they considered that the proposed development would cause harm in character and appearance terms. This is despite the fact that matters relating to layout, appearance, scale and landscaping would be reserved for future approval. The fact is that the applicant sought outline planning permission for residential development on an identified site and the Council were entitled to consider it as such. Their consideration would evidently extend beyond the consideration of access which was also sought for approval. The Council reasonably set out their concerns in relation to the introduction of a residential use at the appeal site, which they considered would have an urbanising effect. Their concerns were put forward with a reasonable and objective analysis reflective of the outline nature of the application.
 8. The applicant has referred to a Costs Decision¹ where an Inspector considered that the Council acted unreasonably in imposing a condition on an outline planning permission, where scale was to be reserved for future approval, which restricted the height of the development.
 9. That appeal, and the subsequent costs application, was in relation to conditions imposed on an outline planning permission which is a different procedure to the current appeal. It is also not clear if the same considerations, such as a Green Belt location, applied in that case. I therefore give it limited weight.
 10. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such I find that the applicant was not put to unnecessary or wasted expense. I find nothing to suggest that a decision was not reached on the basis of the planning merits of the proposed development.

Conclusion

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

A M Nilsson

INSPECTOR

¹ Costs Decision for appeal APP/U2235/W/22/3291603