



Costs Decision

Site visit made on 3 January 2025

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 6 February 2025

Costs application in relation to Appeal Ref: APP/K0425/W/24/3346978

Barns Grymsdyke Farm, Main Road, Lacey Green, Buckinghamshire HP27 0RB

- 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 Kebbell Development Ltd for a full award of costs against Buckinghamshire Council - West Area (Wycombe).
 - The appeal was against the refusal of planning permission for the demolition of existing buildings and erection of 5 No. dwellings with associated parking and landscaping.
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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 application essentially relies on the fact that the applicant disagrees with the Council's interpretation of Policy DM5 of the Adopted Delivery and Site Allocations Plan, July 2013 (DSAP) and consider that they relied too heavily on an officer's view and have not taken adequate account of the evidence that was presented particularly in relation to redevelopment of the site. It also relies on the fact that they consider that the Council has taken an inconsistent approach to the appeal proposal in comparison to a precedent case¹. They acknowledge that the Council distinguished it due to the particular context but consider context is irrelevant as in both cases Policy DM5 of DSAP was engaged and consequently they should have been decided in a consistent way.
4. The Council consider that their interpretation of Policy DM5 of the DSAP has been reasonable, and the application is largely a re-iteration of their case in relation to the appeal. They set out that they have fully justified their reason for refusal and have taken account of all information presented including the other cases that have been raised.
5. When considering the available evidence, it is clear that the appeal site meets the definition of a Scattered Business Site. Consequently, it is common ground that Policy DM5 of DSAP is engaged. As I set out in the appeal decision I agree in large part with the Council's case and have ultimately concluded that the appellant has not marketed the appeal site appropriately and as a result it has not been clearly

¹ 17/07080/FUL

demonstrated that the re-use of the site for B1, B2 and B8 use classes of the Use Class Order or employment generating sui generis uses is no longer practicable. Consequently, I do not consider that the Council have misinterpreted Policy DM5 of the DSAP. I have been able to understand the case put forward by the Council and consider they have made a sufficient and reasonable case in this regard.

6. Moreover, overall, I am satisfied that whether or not the appeal site has been marketed appropriately and has met the requirements of the relevant policy is a matter of planning judgement and the delegated report makes a sufficient case to support the Council's view. Their judgement is supported by specific references to the relevant policy of the development plan. Bearing in mind I have come to the same judgement on the planning merits, I consider that the approach of the Council was clearly arguable. Therefore, the Council's interpretation of Policy DM5 of DSAP is reasonable and I do not consider they have relied too heavily on the view of an officer.
7. Similarly, although I accept there are some similarities between the proposal subject of the appeal and the other scheme mentioned above, there are also material differences. For example, as outlined in my appeal decision the highway network considerations appear to be materially different. As a result, it is not unreasonable for the Council to have reached a different view in relation to this separate scheme and therefore the Council have not acted unreasonably.
8. In my judgement, when considered in the round, the Council's case was sufficient to raise concerns about the marketing exercise undertaken. Overall, I do not consider that the Council has acted in such a way that it should be considered to be unreasonable behaviour that has led to unnecessary or wasted expense in the appeal process to justify an award of costs.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

S Rawle

INSPECTOR