



Costs Decision

Site visit made on 25 February 2025

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 April 2025

Costs application in relation to Appeal Ref: APP/G2245/W/24/3351967

Perran, Charles Road, Badgers Mount, Sevenoaks, Kent TN14 7BB

- 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 N de Palma for a full award of costs against Sevenoaks District Council.
 - The appeal was against the refusal of planning permission for a hybrid planning application to consist of: a) Full planning application for demolition of existing dwelling and outbuildings. Sub division of land with construction of replacement dwelling with associated landscaping. b) Outline application for one dwelling with all matters reserved.
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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 applicant has applied for costs on the basis that the Council has prevented or delayed development which they consider should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and has failed to produce evidence to substantiate its reasons for refusal on appeal.
4. The appeal before me follows a previously refused outline planning application¹ on this site for the creation of an infill plot and the erection of a detached dwelling. This application was subsequently dismissed at appeal². The applicant contends that the Council unduly relied upon this previous decision and outcome of the appeal and, in doing so, it failed to consider the current scheme in its own merits and specific site circumstances.
5. The applicant asserts that the Council's assessment in relation to the first reason for refusal failed to take account of two appeal decisions where the Inspectors found that the definition of limited infill development in the Green Belt as set out within the Sevenoaks District Council Local Plan Supplementary Planning Document: Development in the Green Belt 2015 (SPD), is not consistent with the National Planning Policy Framework's (the Framework) approach to infilling in

¹ LPA Ref 21/04242/OUT

² Appeal Ref: APP/G2245/W/22/3297714

- villages, and should therefore have been given limited weight in determining the appeal proposal.
6. I note that the Inspector in relation to the appeal on Land South of 10 To 12C High Street³ set out their view that the SPD would carry limited weight in the circumstances of that particular case. A similar approach was followed by the Inspector on the appeal on Land adjacent to Shoreham House⁴. However, in both cases, the Inspectors recognise that a decision regarding this matter can only be reached with reference to a specific proposal and to its surrounding context on a case-by-case basis, so it is a matter of planning judgement. Indeed, the Inspector dealing with the previous appeal on this site found the SPD should be accorded considerable weight in determining the appeal, whereas in Haresfield⁵ the Inspector judged the scheme before them against the SPD but reached a different conclusion to the Council.
 7. In determining the appeal proposal, the Council exercised planning judgement in establishing the weight which in its view should be attached to the SPD guidance on limited infilling. The Council reached a conclusion in light of the available evidence, including the Framework and other appeal decisions it found most pertinent. As such, the decision of the Council is not unfounded in this regard.
 8. The Council provided in its assessment a detailed description of the street scene and assessed the proposal in terms of its context and relationship with the surrounding area. As noted above, the assessment of whether the proposal would constitute infill is a matter of judgement that necessarily involves a degree of subjectivity. Page 1 and pages 8-12 of the officer report describe the site and its surroundings and set out the Council's concerns in respect of harm to the Green Belt. The reason for refusal, together with the officer report, articulated the Council's concerns in a clear and unambiguous manner and the appeal statement further substantiated this. It was not unreasonable for the Council to reach the view it came to. While I have reached a different conclusion with regards to the first reason for refusal, this was on the basis of the revised Framework which was published in December 2024, after the Council's decision.
 9. The appellant contends that the second reason for refusal could have been addressed by condition. However, the presence or absence of protected species and the extent to which they could be affected by the proposed development should be established before planning permission is granted otherwise this material consideration would not form part of the decision-making process. Therefore, this matter cannot be left to a condition, and the Council was not unreasonable in this regard. Indeed, I reached a similar conclusion to the Council in my assessment of this main issue.
 10. The Council had regard to the Framework, Government Guidance and to the specialist advice of the relevant consultees to substantiate its second reason for refusal. The Council was not satisfied with the level of information provided and concluded that the applicant did not provide robust evidence in support of their case, a conclusion that is not dissimilar to my findings.

³ Appeal Ref: APP/G2245/W/21/3271885

⁴ Appeal Ref: APP/G2245/W/22/3303072

⁵ Appeal Ref: APP/G2245/W/19/3230759

11. The officer report explains that, although a Preliminary Ecological Appraisal was submitted with the application, this was almost three years old at the time. On this basis, it was not unreasonable to refuse the application on these grounds, despite that this was not the case with the previous application.
12. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

P Terceiro

INSPECTOR