



Costs Decision

Hearing held on 1 April 2025

Site visit made on 2 April 2025

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th April 2025

Costs application in relation to Appeal Ref: APP/H1705/W/24/3350581

- 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 Basingstoke and Deane Borough Council for a partial award of costs against HD (Burghclere) Limited.
- The appeal was against the refusal of planning permission for residential development of 25 dwellings with access on to Harts Lane, with associated open space, infrastructure, drainage, landscaping, and accessible natural greenspace at

Land on the South and South East side of Harts Lane, Burghclere, Hampshire, RG20 9JD

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 also advises that the right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. This may occur when the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period.
4. The applicant has made an application for a partial award of costs on the substantive grounds that pursuing an appeal had no reasonable prospect of success. Two previous appeals¹ have been dismissed on the same, or part of the same site. The previous schemes were for between 5-9 dwellings and 35 dwellings and were therefore each for a different scale of development. In both cases, it was concluded that the effect of development on the character and appearance of the area would be harmful and in conflict with Policy EM1. Furthermore, both previous appeal schemes were considered at a time when the Council did not have a 5-year housing land supply. Therefore, the applicant contends that the appeal had no reasonable prospect of succeeding.

¹ Appeal references: APP/H1705/W/19/3242216 and APP/H1705/W/20/3248187

5. In my decision I agree that the effects of the proposed development on landscape character and the visual effects of the development would be harmful. Nevertheless, the evidence submitted by the appellant and the arguments made in respect of character and appearance sought to respond to concerns about the previous scheme for 35 dwellings. The appellant's arguments were not inherently unreasonable or without merit. Furthermore, in the intervening period since the appeal for the 35 dwellings was dismissed, the Burghclere Neighbourhood Plan has been made and modified, and Government has published updates to the Framework. In addition, the Local Plan update has not progressed to adoption as anticipated. Other factors were also advanced by the appellant that were relevant to the planning balance.
6. While I conclude that the appeal scheme is detrimental to the character and appearance of the area and policy changes and other factors do not result in a different decision to those made by previous Inspectors, I am satisfied that the circumstances materially changed in the period between the earlier appeal decisions and the appeal before me. Consequently, I am satisfied that the appeal was reasonably made.
7. Given the above, I cannot agree that the appellant has acted unreasonably in this case.

Conclusion

8. Unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Diane Cragg

INSPECTOR