



Costs Decision

Inquiry held on 15-17 April 2025

Site visits made on 14, 16 and 23 April 2025

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th May 2025

Costs application in relation to Appeal Ref: APP/C1055/W/24/3356476

Land to the West of Royal Hill Road, Spondon, Derby

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Miller Homes Limited for a full award of costs against Derby City Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission with respect to an outline application for residential development including access arrangements - up to 90 dwellings.
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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 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 alleged that the Council behaved unreasonably by preventing and thus delaying development that should clearly have been permitted. This position is supported by points that include: the Council's development plan being out-of-date, the uncertainties associated with its emerging new Local Plan, the presence of a housing land supply shortfall, the existence of a recommendation of approval by Council officers, the raft of benefits to be brought about by the scheme, and the manner in which a gap between Spondon and Chaddesden would be preserved. It has also been alleged that the Council, by virtue of the manner in which evidence was presented at the Inquiry, has misunderstood and misapplied the National Planning Policy Framework (the Framework).
4. I first note that the Council's Planning Committee Members were entitled to come to a different decision to that recommended to them by its officers. This would not be unreasonable, provided that the conclusions drawn were properly substantiated.
5. It is clear from the Decision Notice and subsequent evidence put to the Inquiry that the presumption in favour of sustainable development was correctly engaged by the Council in its deliberations as a consequence of it being unable to demonstrate a five-year supply of deliverable housing sites. Further, suitable acknowledgement of the scheme's considerable benefits has been validated via evidence presented by the Council as well as via the agreed Statement of Common/Uncommon Ground.

6. Even so, the Council's witness, under cross-examination, failed to demonstrate an understanding that Policy CP18 (Green Wedges) of the adopted Core Strategy is, as a consequence of being one of the most important policies for determination (a matter of common ground), deemed out-of-date via relevant provisions of the Framework. Nevertheless, in such circumstances, the weight to be afforded to Policy CP18 (and to any identified conflict with it for the purposes of decision-making) remains a matter of planning judgement to be led by consideration of the policy's degree of consistency with the Framework.
7. It shall be seen from my decision upon the planning appeal to which this costs application relates that I have apportioned moderate weight to the scheme's identifiable conflict with Policy CP18. This weighting takes into account that Green Wedges, which comprise an integral part of the spatial composition of the city, exhibit consistency with important aims of the Framework. Thus, whilst my finding of moderate weight also recognises that the provisions of the policy act to restrict the delivery of new homes, Policy CP18 retains meaningful relevance and purpose even though deemed out-of-date and not fully consistent with the Framework.
8. Further, notwithstanding the successful outcome of the planning appeal, it is pertinent to note my findings that the proposed development, which relates to a not inconsequential accumulation of land, would have an adverse effect upon the function of the Spondon/Chaddesden Green Wedge (SCGW) and materially erode the largely undeveloped, green, and open gap that prevails between the two neighbourhoods.
9. In the context just set out, notwithstanding the significant extent of the identifiable housing land supply shortfall and the uncertainties associated with the emerging Local Plan's progression, it was not, to my mind, unreasonable for the Council to refuse planning permission on the sole basis of identifying harm to the strategic function of the SCGW and associated conflict with Policy CP18. Moreover, any misunderstanding or misapplication of the Framework's provisions has not led to illogical or irrational conclusions being drawn by the Council.
10. For the above reasons, development was not delayed/prevented that should clearly have been permitted such that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Andrew Smith

INSPECTOR