

# **RIBBLE VALLEY BOROUGH COUNCIL**



Ribble Valley  
Borough Council

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## **Costs Rebuttal**

<b>Planning Inspectorate Reference:</b>	<b>APP/T2350/W/20/3253310</b>
<b>LPA Application Reference:</b>	<b>3/2019/0877</b>

Appeal by Oakmere Homes (NW)

Against the failure of Ribble Valley Borough Council to determine application 3/2019/0877 within the appropriate time period.

**Erection of 39 dwellings with landscaping, associated works and access from adjacent development site.**

**Land at the junction of Chatburn Road and Pimlico Link Road Clitheroe BB7 2EQ**

1. The appellant has applied for an award of costs against the Local Authority relating to the appeal against the failure of Ribble Valley Borough Council to determine application 3/2019/0877 within the appropriate time period.
2. The application sought consent for the erection of 39 dwellings with landscaping, associated works and access from adjacent development site at land at the junction of Chatburn Road and Pimlico Link Road Clitheroe BB7 2EQ.
3. Planning Practice Guidance states that costs may be awarded where unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The aim of the costs regime is to:
  - encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case
  - encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay
  - discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.
4. The Planning Practice Guide (PPG) identifies that unreasonable behaviour in the context of an application for an award of costs may be either:
  - procedural – relating to the process; or
  - substantive – relating to the issues arising from the merits of the appeal.

#### **Observations in relation to Claimants Case**

5. The Local Planning Authority has taken account of the issues raised by the appellant in their application for the award of costs. The Local planning Authority is of the opinion that there are no merits for an award of costs against the Authority in relation to procedural grounds at pre-application, application stage, post decision or appeal stage. The Authority considers that the appeal proposal is in direct conflict with the adopted Development Plan and as such the proposed development should be refused. This assertion is fully substantiated in the officers delegated report and appeal documentation which has been submitted on behalf of the Local Planning Authority.

6. The appellant makes assertions in relation to the Local Planning Authority has sought to 'reinterpret or reinvent' development plan policy. Specifically, Policy DMG2, its interpretation and application.
7. The authority disputes the appellants claims in this respect and considers that the submitted appeal statement and the associated Inspectors decisions referred to within the statement (Appendices 03-07) clearly demonstrate that DMG2 has historically been interpreted and engaged in a manner that aligns with and is consistent with the determination of the application to which this current appeal relates.
8. In this regard the authority has clearly demonstrated that Policy DMG2 is two-fold in its approach to guiding development. With the primary part of the policy DMG2(1) engaged where development proposals are located 'in' principal and tier 1 settlements with the second part of the policy being engaged when a proposed development is located 'outside' the defined settlement areas or within tier 2 villages. This interpretation and application of Policy DMG2 has clearly been evidenced as a historic approach and an approach that has been endorsed by a number of Inspectors decisions (as evidenced within the appendices of the submitted appeal statement).
9. In this respect, contrary to the appellants claims, there is no requirement for the Local Planning Authority to substantiate a 'new interpretation' of Policy DMG2 insofar that the policy has not been interpreted in any other manner than that which has been historically demonstrated.
10. The appellant makes reference to the 'Henthorn Decision' within their costs application. The appeal statement submitted by the authority clearly explains that the 'Henthorn' recommendation was made at a time whereby 5 Year Housing Land Supply was considered marginal and as such the boosting of supply was a priority for the Local Planning Authority. In such circumstances it is not considered unreasonable to conclude that policies should therefore be applied and engaged flexibly to maintain a 5 Year Housing Land Supply. However given the current supply position of the authority, the policies in relation to the locational aspirations for new residential development within the borough should be applied with their full weight.
11. Notwithstanding the above matters, taking account of the historic interpretation of Policy DMG2 and how the Policy should be engaged, it is clear that the Local Planning Authority can demonstrate it has done so in a consistent manner. In this regard it can be considered that at the time of the determination of the Henthorn Application, it was at this point that an anomalous interpretation of DMG2 was made by the authority in concessions made during the appeal procedure and Inquiry proceedings.

## **Conclusion**

12. It is therefore respectfully argued that the Local Planning Authority has provided sufficient evidence to substantiate its reasons for refusal and that these are explicit and clearly conveyed in detail both within the officers report and subsequent submitted written representations.
13. To conclude, it is submitted that the appellant has failed to demonstrate that the Council has acted unreasonably and/or that the appellant has thereby incurred unnecessary or wasted expenses or costs.
14. The appellant is clearly aggrieved at the determination of the application and the need to subsequently pursue this case through the appeal process but these do not constitute reasonable, appropriate, or substantive grounds for the granting of an award of costs against the Authority. Careful scrutiny should be paid to applications for awards of costs and it is respectfully submitted that the application for award fails to meet the required conditions of the PPG.
15. It is for the above reasons that the Inspector is respectfully requested to dismiss the application for an award of costs against the Local Planning Authority given no substantive grounds of unreasonable behaviour have been demonstrated or put forward by the appellant in respect of the appeal.