
Costs Decision

Site visit made on 19 October 2016

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16th November 2016

Costs application in relation to Appeal Ref: APP/H0520/W/16/3154786 Land north of 192-194, Ugg Mere Court Road, Ramsey Heights PE26 2RH

- 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 John Shotbolt for a full award of costs against Huntingdonshire District Council.
 - The appeal was against the refusal of planning permission for the erection of 2x2 storey detached dwellings with detached garages.
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Decision

1. The application for an award of costs is refused.

Reasons

2. 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 argued that the Council did not take full and proper account of the National Planning Policy Framework (the Framework) in the determination of the original application. In particular, that the Council did not properly apply paragraph 55 and this led to the refusal of development that should have clearly been permitted. The applicant has drawn my attention to an earlier appeal¹ and cost decision as part of the application and I had regard to these in my decision.
4. The Council's reason for refusal focussed on their assessment that the appeal site lay outside the defined settlement of Ramsey Heights. The relevant saved policies of the Huntingdonshire Local Plan² (LP) and the Huntingdonshire Core Strategy³ (CS) indicate that development would only be permitted where there was an essential need for the development in the countryside. No such needs were identified and, as a result, the application was refused. Under policy CS3, whether a site is within or outside the settlement hierarchy is judged on a case-by-case basis. While I disagreed with their conclusions on this matter, there is nothing unreasonable in the Council concluding that the site fell outside the settlement. The relevant policies make this a matter of planning judgement.

¹ Appeal reference: APP/H0520/W/15/3025068

² Huntingdonshire Local Plan Part One Adopted December 1995

³ Huntingdonshire Local Development Framework Core Strategy Adopted September 2009

5. While the Council's officer report alluded to paragraph 55 seeking to avoid isolated homes in the countryside, it did not highlight the fact that it also states that homes in rural areas should be located where they can enhance or maintain the vitality of rural communities. There is some consistency between the Council's development plan policies and the Framework insofar as the defined settlements will, at least in principle, meet the objective of supporting thriving rural communities.
6. The Council should still therefore have considered whether the development would be capable of meeting the Framework's requirements irrespective of the fact it had concluded the site was outside the built form of Ramsey Heights. Therefore, the largely blanket restriction on development outside defined settlements would not be in complete accordance with the Framework and a different type of assessment would be required. The officer report did not address or highlight the differences in approach between the Framework and the Development Plan and gave the impression that policy CS3, and other relevant policies, were entirely consistent with the Framework.
7. The Council has argued that they considered paragraph 55 in terms of promoting sustainable development in rural areas. However, it did not carry out a thorough assessment of whether the development would help to sustain or enhance rural communities or be isolated in the context of paragraphs 17 or 55 of the Framework. Reference was made to the site being in reasonable proximity to local services and facilities and the positive contribution the development would make to the housing supply was highlighted. However, this was not done in the context of the Framework. I find that this is evidence of unreasonable behaviour on the part of the Council. This is compounded by the fact that the Council's approach to paragraph 55 had already been found in error by a previous Inspector and yet no obvious change in approach had taken place.
8. However, the Council have pointed out that part of their reason for refusal related to the effect of the development on the character and appearance of the area. Notwithstanding the debate over whether a site forms part of the settlement, or would be considered 'isolated' in the context of the Framework, it is still legitimate for the Council to conclude that the development would have an unacceptable impact in this regard. Again, the fact I disagreed with their conclusions the Council's conclusion on this does not mean the Council's behaviour was unreasonable. Based on the evidence before me, it would be reasonable to assume that the application would have been refused in any event and the appeal would still have taken place. In this respect, the circumstances would not necessarily reflect a direct comparison with the earlier appeal.
9. In determining whether to award costs, there must also be evidence of unnecessary and wasted expense as well as unreasonable behaviour. The appeal would, in all reasonable likelihood, have taken place in any event. Moreover, much of the applicant's evidence related to demonstrating that the site should fall within the settlement of Ramsey Heights and illustrating that the Council's reliance on earlier Local Plan policies to refuse development was flawed. Whilst there was reference to the relationship between the appeal site and paragraph 55, this did not constitute a significant element of the applicant's evidence and would not have taken a large amount of time to carry

out. Thus, I do not consider that there would have been any unnecessary expense as a result of the Council's behaviour.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

S J Lee

INSPECTOR