
Costs Decision

Site visit made on 1 December 2016

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 23rd January 2017

Costs application in relation to Appeal Ref: APP/X1925/W/16/3156040 Sunvale, Bedford Road, Holwell, Hertfordshire, SG5 3RX

- 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 Ms Lynda Musgrove for a partial award of costs against North Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for the erection of one new detached dwelling, associated landscaping and vehicle parking following demolition of existing residential outbuildings.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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 appellant alleges that the Council acted unreasonably in relation to each of the 3 reasons for refusal.
 4. With regards to the first reason for refusal, the appellant states that the decision notice should have identified the relevant part of Policy 6 of the North Hertfordshire District Local Plan No 2 with Alterations (1996). However, the officer report is clear why the proposal was considered not to comply with this policy and there is therefore no ambiguity in this regard. The appellant also states that the Council should have provided a definition of the term 'settlement' in relation to Policy 6. However, this term is not defined in the policy or supporting text, and in these circumstances I do not consider it unreasonable for the Council to make a judgement in this regard. For these reasons, I do not consider that the Council acted unreasonably in relation to the first reason for refusal.
 5. The second reason for refusal stated that future occupiers of the development would be unduly reliant on private transport. The appellant has brought to my attention a recent approval by the Council for two dwellings at the nearby Old Ramerick Manor site (ref 14/02298/1), which is around 775 metres from the appeal site. The appellant alleges an inconsistency in decision making in this regard. However, the Old Ramerick Manor site is significantly closer to the services and facilities in Henlow Camp. The accessibility of the 2 sites is therefore not the same and the Council were entitled to take a different view in
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this case. In any event, the accessibility of a development site is to a certain extent a matter of professional judgement. I therefore do not consider that the Council acted unreasonably in applying the second reason for refusal.

6. The third reason for refusal related to the appropriateness of the waste storage and collection arrangements. To substantiate this, the Council sought to rely in part on a non-compliance with the Building Regulations. However, The Building Regulations do not form part of the planning regime in this respect, so are not relevant to the case. Moreover, the National Planning Policy Framework does not mention waste storage and collection arrangements. Whilst the Council state that future occupiers of the development would need to have their waste collected by a private contractor, it is unclear why this would be the case. No other planning harm was identified by the Council to justify this reason for refusal.
7. PPG lists examples of the behaviour that may give rise to a substantive award of costs against a local planning authority. These include: "failure to produce evidence to substantiate each reason for refusal on appeal". In this case, the third reason for refusal has not been substantiated. In these circumstances, extra costs were incurred, and an award of costs in these specific respects is justified.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North Hertfordshire District Council shall pay to Ms Lynda Musgrove, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in arguing against the Council's third reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to the North Hertfordshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thomas Hatfield

INSPECTOR