
Costs Decision

Site visit made on 13 December 2016

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 26th January 2016

Costs application in relation to Appeal Ref: APP/Z2830/W/16/3157712 land off Banbury Lane, Pattishall NN12 8FB

- 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 and Mrs Roger Clarke for a full award of costs against South Northants District Council.
 - The appeal was against the refusal of planning permission for the erection of a bungalow and garage.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 states that awards of costs against a local planning authority may be either procedural or substantive in nature. It goes on to make it clear that a local planning authority is at risk of costs in substantive terms if they behave unreasonably with respect to the substance of the matter under appeal. Such grounds may include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; reliance on vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis or acting contrary to, or not following, well-established case law.
 4. It is these grounds that this application for costs cites in claiming that the Council has acted unreasonably in refusing planning permission. In so doing, the appellant argues, the Council has demonstrated behaviour justifying a substantive award of costs.
 5. However, as my decision on the planning merits of the proposal sets out, I do not agree that the proposal "clearly accords" with the development plan policies cited in the reason for refusal, principally South Northamptonshire Local Plan saved policies H6 and EV2, but also policy R1 of the West Northamptonshire Joint Core Strategy. Indeed, I conclude to the contrary.
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6. The appellant also states that only very limited weight should be afforded to the provisions of the development plan, citing an appeal decision at Blisworth¹, in addition to that at Malus Field², as evidence that only limited weight should be given to these policies. In the case of the former, I am advised that the matter was considered prior to the publication of the most up to date rural housing requirement figures, which the Council have relied on in this instance, whilst in the case of Malus Field, there appeared to have been a significant shortfall in terms of the Council's 5 year housing land supply figures at that time. Thus, I am satisfied that those cases do not provide direct comparison to the proposal in this instance, not least in respect of the policy and evidential context in which they were considered, so the weight that they carry is necessarily limited.
7. Further, whilst the presence of the Malus Field development may well have altered the built extent of the village at its western end on School Road, the location of the proposed access to the site owes more to the pleasant, low key, rural approach to the village from the east than it does the newly built residential character of Malus Field. Development here, accessed from Banbury Lane, would alter the character of this part of Banbury Lane, and the character of the eastern approach to the village, which together support the judgement that the site lies beyond the village confines in terms of both its character, and the defined confines set out in the development plans.
8. The Council have clearly considered the future health and care needs of the appellant throughout the proposal. However, the weight to be given to material considerations is a matter for the decision maker. Whilst the proposal has been considered in the context of SNLP policy H6, and particularly the exceptions set out at policy H6(II) A) – D) with regard to the appellant's circumstances, I agree with the Council that it has not been adequately demonstrated that the proposal would satisfy the criteria set out therein. I find that the appellant's long standing association with the village has also been appropriately and duly considered.
9. Although officers, in making their recommendation to the Committee, considered that material considerations outweighed conflict with the development, the Committee reached a different conclusion. I am satisfied that in reaching that conclusion, and subsequently setting out the Council's case in relation to this appeal, the Council have clearly demonstrated that the proposal does not accord with the development plan and that material considerations do not outweigh that conflict in this instance.

Conclusion

10. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is not therefore justified.

Graeme Robbie

INSPECTOR

¹ APP/Z2830/W/15/3136374

² APP/Z2830/A/09/2109114