
Costs Decision

Site visit made on 16 January 2017

by Graham Chamberlain BA MSc MRTPI

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

Decision date: 9th February 2017

Costs application in relation to Appeal Ref: APP/W0530/W/16/3160369 Orchard House, Highfield Road, Impington, Cambridgeshire CB24 4PF

- 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 J Webster for a full award of costs against South Cambridgeshire District Council.
 - The appeal was against the refusal of planning permission for the erection of one single storey dwelling and one two storey dwelling along with the demolition of the existing office building.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, the National Planning Practice Guidance (PPG) states that an award of costs may only be made against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellant suggests the Council significantly under assessed the nature of the appeal site and its surroundings. I do not consider this was the case. The Council's submissions demonstrate a robust understanding of the site and its context and this appreciation was based on a site visit. For example, I share the Council's conclusion that the built form in the road has a linear character. As such, the Council did not under assess the appeal site and its environs.
4. The Council were entitled to apply its planning judgment in finding that the appeal scheme would have the character of the area. The Council's assessment was logical and flowed from the Case Officer's site appraisal. Whilst I do not share the conclusions of the Council for the reasons outlined in my decision, I do not consider the Council's decision was so erroneous and without substantive as to have been unreasonable and without objectivity. As such, I do not consider the Council unreasonably overstated the alleged impacts.
5. The PPG states¹ that a Local Planning Authority may have acted unreasonably if it failed to co-operate with another party by, for example, failing to discuss the application or appeal. The appellant is of the view the Council failed to conduct itself in this proactive way.

¹ Paragraph: 052 Reference ID: 16-052-20140306 of

6. However, the Council has stated that in its opinion, the proposal would require significant changes to make it acceptable and this was imparted to the appellant before the decision was made. Additionally, it is unclear whether the appellant has approached the Council following its decision to discuss possible solutions and whether the appellant sort pre application advice in the first instance, which would have been an opportunity for cooperative working. As such, I am not satisfied the Council's behavior was unreasonable in respect of its workings with the appellant.
7. The PPG states² that *refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead*. In my decision I have concluded that some of the limitations found by the Council were capable of mitigation through the imposition of planning conditions. The Council failed to properly consider conditions within its submissions. Of particular significance is that although the Council stated in its rebuttal of the appellant's application for costs that the impacts could not be mitigated by planning conditions, it did not explain why. This is a substantive failing. However, the appeal scheme cannot go ahead as some of the other limitations are incapable of being mitigated by planning conditions. As a consequence, the Council's substantive failing on this point has not prevented the development from going ahead and ultimately this has not proven to be a determinative matter.
8. The Council failed to refer to the National Planning Policy Framework in its reasons for refusal. In particular, it failed to overtly apply Paragraph 14 of the Framework, which is engaged as the Council is currently unable to demonstrate a five year housing supply and therefore its policies that affect the supply of housing as out of date. Whilst it is clear that the Council were aware of the Framework, it is not clear it gave it sufficient weight and regard as a material consideration. Nevertheless, these omissions have not ultimately prevented or delayed a development which should clearly have been permitted. Thus, I do not find this amounted to unreasonable behavior in this instance.

Conclusion

9. My overall conclusion is that the Council did not act unreasonably by incurring any procedural or substantive failures. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Graham Chamberlain,
INSPECTOR

² Paragraph: 049 Reference ID: 16-049-20140306