
Costs Decision

Site visit made on 27 March 2017

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 18th April 2017

Costs application in relation to Appeal Ref: APP/V0510/W/16/3165159 Land adjacent to 59 Ditton Green, Woodditton, Cambridgeshire CB8 9SQ

- 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 B Reeve and Mr T Hensby for a full award of costs against East Cambridgeshire District Council.
 - The appeal was against the refusal of planning permission to build two detached houses with garages.
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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. Members of the Council's planning committee are not bound by the recommendations of their Planning Officers and were thus entitled to reach a different view on the acceptability of the proposal relative to the character and appearance of the area. Nevertheless, such a course of action must be supported by sound planning judgment based on a rationale assessment.
4. In this respect the Council were concerned that the proposal would fill an important open space in the street scene and obscure views of the countryside beyond the settlement. These are sound planning matters that flow from the development plan¹. Moreover, the Members of the planning committee were aware of previously dismissed appeals². Members were also entitled to apply their local knowledge and judgement that the appeal site was a 'beautiful' spot that contributed to the character and appearance of the settlement. Additionally, the Chairman advised the committee that the application should be approved unless there would be substantial harm. Whilst this advice was not strictly correct³, it is evidence the decision was not taken frivolously.
5. As such, the Council's approach was not disproportionate and the case presented by the Council in respect of the appropriateness of the design was not so irrational and lacking in substance as to have been unreasonable.

¹ Policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015

² APP/V0510/A/90/148118/P8 and APP/V0510/A/89/1211059/P5

³ See footnote 5 below which sets out the correct test in the absence of a five year housing land supply

6. The appeal scheme was not refused by the Council due to the perceived loss of a public open space. The minutes of the planning committee demonstrate that the Members were well aware that there is no formal public access to the land. Instead, the Council were concerned by the loss of the appeal site as an open space which provides relief to the built form of the village and localised views to the countryside. In my view, the appellants have erroneously conflated the term 'open space', which in this context can be considered an open area that can be afforded some public value⁴, with 'public open space' which is an open space with public access.
7. There are no planning designations covering the appeal site which would suggest development should be restricted. However, planning controls are not solely exercised in areas of acknowledged special interest. The Council were therefore entitled to reach a conclusion that the proposal would harm the character and appearance of the area even though there is an absence of a local designation covering the appeal site, such as conservation area status.
8. It is evident from the committee minutes that Members of the planning committee considered the application with regard to the provision of the National Planning Policy Framework. The Council's Planning Officers advised that the authority was currently unable to demonstrate a five year housing land supply and set out the test in the Framework⁵ to be applied in such circumstances. The Council's Planning Officers also outlined the benefits of the proposal in the committee report⁶ so Members would have had these in mind when making their decision as well as the relevant sections of the Framework⁷.
9. The Committee minutes identify the significant level of opposition to the planning application as a reason for refusal. However, this is not an independent reason for refusal on the decision notice. When reading the submissions as a whole it is clear that public opposition was a consideration factored into the assessment undertaken by Members of the Council's planning committee. I find no fault with that as the very purpose of consulting the public on a planning application is to receive their views and attach weight to them. The objections received by the Council demonstrate that the open nature of the appeal site is considered locally to be a visually important component of the area and this is a material consideration of some force to which Members of the planning committee were entitled to attach the weight they did.

Conclusion

10. My overall conclusion is that the Council did not act unreasonably in refusing the appeal scheme and subsequently defending its decision through the appeal process. As such, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not occurred.

Graham Chamberlain,
INSPECTOR

⁴ Including visual amenity

⁵ see Paragraph 14 of the Framework – that when relevant development plan policies are out of date, development should be granted unless the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework as a whole or specific policies in the Framework indicate development should be restricted.

⁶ See Paragraph 7.9 of the Committee Report

⁷ See Paragraph 6.3 of the Committee Report