

Costs Decision

Site visit made on 25 April 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 17th May 2017

**Costs application in relation to Appeal Ref: APP/C1570/W/17/3167113
Land between Hawthorns and Wytewais, Gransmore Green Lane,
Gransmore Green, Felsted CM6 3LA**

- 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 KG Moore Partnership for a full award of costs against Uttlesford District Council.
 - The appeal was against the refusal of planning permission for erection of 1 no. dwelling with garage/outbuilding and related infrastructure.
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Decision

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

Reasons

2. The national Planning Practice Guidance (PPG) advises in paragraphs 29 and 30 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 applicant submits the Council has acted unreasonably with regards to paragraph 49 of the PPG and the substance of the matter under appeal on three main points. Firstly, in relation to the sustainability of the site, the Council failed to substantiate why the site is unsustainable, made vague, general and inaccurate references in the decision notice, went against the conclusions of appeals concerning the locality's sustainability, and acted inconsistently in terms of approving similar development nearby.
 4. Reviewing the delegated report, it is clear that the Council considered the three dimensions of sustainability in some detail, and did not find against the social and economic dimensions. Under the social dimension, the report acknowledges that previous appeal decisions found that nearby sites were located within a relatively sustainable location in terms of access to services and facilities. The decision notice is sufficiently clear that it is the environmental dimension of sustainability, namely the effect on the character and appearance of the countryside, which the Council considered to be harmed.
 5. In terms of inconsistency, the development approved by the Council is sited on the B1417 Braintree Road rather than on Granmore Green Lane. The appeal site is not identical to the approved site in terms of environmental effects on the character and appearance of the countryside, and so the Council were not required to come to the same overall conclusion on sustainability. The same applies in terms of the two appeal decisions which involved sites that are not
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identical to the current appeal site. Concluding on the applicant's first point, no unreasonable behaviour has occurred.

6. The applicant's second point relates to a clear case to allow infill development. While I have agreed with the applicant that the proposal would represent sensitive infilling and no loss of a significant gap, the Council were entitled to come to a different conclusion based on the development plan and national policy and its assessment of the site circumstances. Thus, no unreasonable behaviour has occurred with regards to the second point.
7. The applicant's third point is that the Council failed to review the case in light of evidence indicating that the Council cannot demonstrate a five year housing land supply. Given that I have found that the proposal accords with the development plan, it has not been necessary for me to come to a view on housing land supply. Nevertheless, even if the Council could not demonstrate a five year housing land supply, this would not automatically mean that it should no longer defend an appeal. It would depend on the circumstances of each case. Thus, no unreasonable behaviour has been demonstrated with regards to the third point.

Conclusion

8. I have found that no unreasonable behaviour has occurred that has led to unnecessary or wasted expense in the appeal process. Therefore, for the reasons given above, no award of costs is made.

Tom Gilbert-Wooldridge

INSPECTOR