

Costs Decision

Hearing held on 21 March 2017

Site visit made on 21 March 2017

by David Cliff BA Hons MSc MRTPI

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

Decision date: 15th June 2017

Costs application in relation to Appeal Ref: APP/W0530/W/16/3157596 Land at Hurdleditch Road, Orwell, Cambridgeshire SG8 5QG

- 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 K.B. Tebbit Ltd and Davidsons Development Ltd for a full award of costs against South Cambridgeshire District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for 'outline planning application for up to 49 dwellings, community car park and coach drop-off facility, pumping station and associated infrastructure'.
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Decision

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

Procedural Matter

2. Following the appellants' costs application made at the Hearing, it was agreed at the Hearing that the Council's response along with the appellants' subsequent comments could be made in writing in accordance with an agreed timetable. The costs application proceeded in this manner.

Reasons

3. Planning Practice Guidance advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 4. The appellants have referred to previous appeal decisions where schemes for residential development have been allowed at or adjacent to Group Villages. The Council does not specifically refer to such decisions in its written evidence. Nevertheless, it has carried out an assessment of the particular accessibility merits of Orwell with regard to employment, shops/services and community/social facilities finding harm in terms of overall accessibility and the need to reduce the dependency on travel by car.
 5. I am satisfied that in this respect, each decision should be made on its merits and, whilst other appeal decisions can be relevant, just because a development has been carried out at one Group Village it does not necessarily mean that all Group Villages are suitable locations for residential development. I also note that the Council has approved other housing development at Group Villages. Whilst the Council could have gone on to provide a more specific comparative
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assessment, I am not persuaded that it simply disregarded the previous appeal decisions. I therefore find no unreasonable behaviour in this regard.

6. In its appeal statement, the Council recognises the benefit of the scheme comprising market and affordable housing. It states that this may be considered as a significant planning benefit to which substantial weight is attached. However, the Council goes on to conclude that when taken as whole, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the scheme when considered against the Framework. Whilst I have come to a different view in the final planning balance, I consider that the Council has given consideration to the significance of its housing shortage in making its decision and has not acted unreasonably in this respect.
7. In its appeal statement the Council acknowledges that only limited weight can be applied to the conflict with the relevant policies including policy ST/6. Whilst this position has changed in relation to its officer report which states that policies ST/6 and DP/7 can be afforded considerable weight, the Council still maintains its position in its appeal evidence that the adverse impacts would significantly and demonstrably outweigh the benefits when considered against the Framework.
8. Although policy ST/6 was included in its reason for refusal, the Council has set out its updated position on this policy in its appeal statement and orally at the hearing. Whilst its consideration of the relevance of this policy has changed, its general objection in relation to the location of the site and accessibility to services and facilities has not changed as a result. It appears to me that even had the Council arrived at its current stance on policy ST/6 earlier in the process, this would not have prevented the need for the hearing or significantly changed the amount of work involved in the appellants' preparation for it.
9. Therefore, I do not consider that the change in position regarding policy ST/6, or the weighting given to policies amounts to unreasonable behaviour that has caused the appellants to incur unnecessary expense in the appeal process.
10. The Council's evidence on landscape impact and the setting of the village includes a written statement which together with the oral representations provided at the Hearing provides an assessment justifying the Council's position. I note that there is some inconsistency in the findings contained in this statement, which were clarified at the Hearing. However, I do not consider that the inconsistency is of such magnitude to have resulted in the appellant needing to undertake more work in setting out its case than otherwise would have been the case. Even though the appellant has drawn attention to some deviation from the relevant landscape guidelines, overall the Council's submissions adequately set out its case. I do not consider that the Council has acted unreasonably in terms of providing satisfactory evidence to support its reason for refusal in respect of landscape impact and the setting of the village.
11. With regard to the Church of St Andrews, the Council's reason for refusal notes that views are afforded across the existing field to the church but in the accompanying paragraph it does not specifically mention any harm with regard to the views to the Church. Whilst I acknowledge that the reason for refusal might be interpreted as implying that harm would arise in terms of views to the church, the officer's report does not detail such harm.

12. Furthermore, the Council's appeal statement and oral representations at the Hearing have not raised this as an issue. I also note, however, that the issue relating to views to the Church has been raised by third parties including the Parish Council and so might have been a matter which the appellant would have sought to address in its evidence in any case. Whilst the Council's reason for refusal might have been clearer, I do not consider that the Council has acted unreasonably in this regard.

Conclusion

13. I conclude that for the reasons set out above, on the balance of probability, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. An award of costs is therefore not justified.

David Cliff

INSPECTOR