
Costs Decision

Site visit made on 16 May 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 23 June 2017

Costs application in relation to Appeal Ref: APP/R0660/W/17/3170338 Land to the south of Close Lane, Alsager ST7 2TR

- 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 Muller Property Group for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for outline planning for residential development and access, all other matters reserved.
-

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 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.
3. The appellant claims that the Council were unreasonable in refusing the application which they believe should have clearly been permitted having regard to the development plan, national policy and other material considerations, in particular in view of the Council accepting that they do not have a five year supply of housing. The appellant further considers that the application was similar to schemes for residential development on adjacent land which previous Inspectors had considered to be sustainable development. Therefore, the appeal proposal should have been dealt with in a consistent manner. Furthermore, it is claimed that the reason for refusal contains generalised assertions about the proposal's impact, which are unsupported by any objective analysis, and that a more constructive approach to the Council's decision making, would have avoided costs incurred.
4. Paragraph 049¹ of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples 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; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; not determining similar cases in a consistent manner; and refusing to enter into pre-application

¹ Paragraph: 049 Reference ID: 16-049-20140306

- discussions, or provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being allowed altogether, or to be considering being narrowed, thus reducing the expense associated with the appeal.
5. I recognise that the site lies adjacent to two sites which had previously been considered to be sustainable in terms of their accessibility to the services and facilities that would be required by future occupiers on a day to day basis. However, the future occupiers of the appeal site, which extends to 2.7 hectares, would reside further away from those services and facilities. It was not therefore unreasonable for the Council to take a different decision in relation to the appeal site's accessibility and its overall planning merits, provided it produced clear justification for doing so.
 6. The reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also states the policies of the Crewe and Nantwich Local Plan that the proposal would be in conflict with, as well as citing conflict with the National Planning Policy Framework (the Framework). The Officer Report clearly set out the Council's position in relation to housing land supply; it also set out the economic and social benefits of the proposal and considered them in the overall planning balance having had regard to paragraph 14 of the Framework. Moreover, the Council did further support their reason for refusal with a written statement, including a separate statement from the Highway Authority, which provided additional evidence to support their reason for refusal.
 7. It will be seen by my decision that I did not agree with the Council's decision. However, I am satisfied, for the reasons set out above, that the Council has adequately substantiated its reason for refusal.
 8. It is clear that the Council had to be directed to, and have the information which had accompanied the application in relation to the quality of the agricultural land clearly explained to them. However, the loss of best and most versatile agricultural land did not form a reason for refusal in the Council's decision, and therefore whilst their lack of engagement with the appellant in this regard may have been unreasonable, no additional cost has been incurred by the appellant during the appeal process.
 9. Paragraph 047² of the PPG states that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal. Examples of unreasonable behaviour which may result in an award of costs include: providing information that is shown to be manifestly inaccurate or untrue.
 10. The appellant claims that the initial Officer's Report provided information that was clearly inaccurate, with regard the site's the distance from the nearest bus stop. A subsequent update to the Officer's Report reinforced the Highway Authority's position, and provided some further clarification on the matter in dispute. It was not entirely clear in this report exactly how the distances quoted had been measured, and during the appeal process there has been further clarification, and eventually some agreement on the distance involved. However, I am satisfied that the information provided to the Council Committee Members was not manifestly untrue, nor was it ultimately misleading. Moreover, the Council's reason for refusal was not solely based on the site's

² Paragraph: 047 Reference ID:16-047-20140306

distance from the nearest bus stop, but concerned the overall accessibility of the site for its future occupiers. Therefore, even if the Council had reported the distance suggested by the appellant as a more accurate measurement, I am not persuaded that the appeal could have been avoided, and there have been no unnecessary costs incurred during the appeal process.

11. I therefore conclude unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated, and an award of costs is therefore not justified.

Elizabeth Pleasant

INSPECTOR