
Costs Decision

Site visit made on 13 June 2017

by Darren Hendley BA(Hons) MA MRTPI

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

Decision date: 25th July 2017

Costs application in relation to Appeal Ref: APP/A3010/W/17/3171543 White House Farm, Main Street, Welham, Retford DN22 0SJ

- 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 WHF Partners for a full award of costs against Bassetlaw District Council.
 - The appeal was against the refusal of planning permission for an outline planning application for a dwelling.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) 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 or wasted expense in the appeal process.
3. The appellant's application for costs is based on that the appeal was unnecessary as the proposal should have been permitted, having regard to its accordance with the development plan, national policy and other considerations; failure to have due regard to the weight required to be attached to the National Planning Policy Framework (Framework) as a valid material consideration which outweighs the Development Plan; and acting contrary or not following well established case law and statute. The appellant also cites the failure to take account of the lack of a five year housing land supply, and other appeal decisions which set out that the relevant planning policies were out of date.
4. The reason for refusal which is set out on the decision notice is specific and relevant to the planning application. It is also clear which policies of the Bassetlaw Core Strategy and Development Management Policies Development Plan Document' (2011) (DPD) and the paragraphs of the Framework the proposal would be in conflict with. The planning officer's report (Report) provides further explanation, setting out that the proposal would not be in a suitable location and that it would not comply with DPD policies that steer development to more sustainable locations.
5. The Report also acknowledges the lack of a five year housing land supply and references Section 6 of the Framework which includes the national planning policies on housing land supply. There is not explicit reference to the approach

to decision-making under paragraph 14 of the Framework, however the Report clearly balances the lack of a five year housing land supply against the contribution the proposal would make, and refers to the local and national planning policies within the format of the Report.

6. The Report does not reference case law relevant although in any case this altered during the appeal with the Supreme Court judgment of 10 May 2017¹, on which I invited both parties to make comments. This did not result in unnecessary expense for the appellant. In respect of failing to have regard to other appeal decisions, I am not persuaded this would have resulted in any other outcome, as each decision needs to be made on its merits.
7. For the reasons set out in the appeal decision, I too have concerns about the suitability of the location and do not consider this outweighed by the contribution the proposal would make to housing land supply.
8. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not therefore justified.

Darren Hendley

INSPECTOR

¹ Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG; Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council [2017] UKSC 37