



Costs Decision

Site visit made on 3 July 2017

by Karen L Baker DipTP MA DipMP MRTPI

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

Decision date: 3 August 2017

Costs application in relation to Appeal Ref: APP/C1570/W/17/3173243 Land adjacent to Cut Elms, Keeres Green, Aythorpe Roding CM6 1PQ

- 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 Martin Whitwood for a full award of costs against Uttlesford District Council.
 - The appeal was against the refusal of planning permission for "Demolition of existing stables and greenhouse. Proposed new dwelling and double garage. Re-submission of refused application: UTT/16/1514/FUL."
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Decision

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

Reasons

2. I have considered this application for costs in the light of the Planning Practice Guidance (The Practice Guidance) and all the relevant circumstances. This advises that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. Paragraph 049 of the Practice Guidance says 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, for example by unreasonably refusing planning applications.
4. The appellant submitted a planning application (Ref. UTT/16/1514/FUL) for a similar proposal on the appeal site which was refused by the Council on 4 August 2016. The reasons for refusal related to the harm to the character and appearance of the area, by virtue of the position of the proposed dwelling within the site and its orientation; the harm to the setting of the Grade II listed building known as Cut Elms Cottage, by virtue of the proposed dwelling's position within the site; and the design of the proposed garage, which would be incompatible with surrounding development, due to its relatively shallow roof pitch.
5. Following the refusal of the earlier application, the appellant made changes to the proposed development to take account of the reasons for refusal and submitted a revised planning application which is now subject to this appeal. This proposal was refused by the Council for 2 reasons. The first reason being that the appeal site is located outside the established development limits and within the countryside and the proposed dwelling would result in a significant intensification to the built form within the immediate area that would harm the

character and appearance of the countryside through the alteration to the character of the surrounding locality and its urbanising effect. Secondly, the Council considered that the proposal would not represent a sustainable development.

6. The appellant considers that the Council, in making its Decision on the application the subject of this appeal, did not take properly into account its Officers' advice to the appellant's agent or the previous planning history of the appeal site, specifically the considerations and Decision it made on the earlier application.
7. The Council states that no formal pre-application submission was made following the Decision on the earlier planning application and therefore no formal advice was given prior to the planning application, the subject of this appeal, being lodged. In addition, the Council says that it did take into account the previous history of the site and in particular the most recently refused planning application.
8. The Council's Delegated Officer Report includes a reference to the previously refused planning application (Ref. UTT/16/1514/FUL) in the relevant site history section. Furthermore, it is apparent from the Report that the Council considers that there would be no harm from the design and siting of the proposed dwelling and the character and appearance of the nearby listed building would be preserved. Nevertheless, the Council is not bound by its previous reasons for refusal or advice given to applicants prior to the submission of planning applications and it sets out clearly in the Report why it considers that this proposal would be harmful.
9. Paragraph 050 of The Practice Guidance says that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs. I am satisfied, from the evidence before me, that the Council has acted reasonably in exercising its development management responsibilities by having regard to the planning history of the appeal site and the advice its Officers gave to the appellant. It has set out clearly in the Delegated Officer Report why it considers this proposal to be harmful. Furthermore, the 2 reasons for refusal clearly set out this harm and make reference to the relevant policies in the development plan and the National Planning Policy Framework.
10. I conclude, therefore, that an award of costs is not justified in this case.

Karen L Baker

INSPECTOR