



Costs Decision

Site visit made on 25 September 2018

by J Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2018

Costs application in relation to Appeal Ref: APP/W3520/W/18/3196561 Land bounded by Derry Brook Lane and Little London Hill, Debenham.

- 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 C Wakefield of Park Properties (Anglia) Ltd for a full award of costs against Mid Suffolk District Council.
 - The appeal was against the refusal of planning permission for use of land for the erection of up to 25 dwellings. Formation of vehicular access to Little London Hill.
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Decision

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

Reasons

2. The national Planning Practice Guidance 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 that the Council has acted unreasonably on 3 grounds. Firstly, that it was unreasonable for planning permission to have been refused as the Council had no evidence to substantiate its decision. Secondly, that the Council has sought to support its decision by reference to the proposed development being contrary to adopted settlement planning policies. Finally, the appellant asserts that the Council has been inconsistent in its planning decisions relating to the appeal site.
4. Taking the first issue, I note the Council's officer's recommendation and their report. However, the decision is one which is a matter of judgment based on the specific scheme before the Council. The committee members were entitled not to accept the professional advice of their planning officers and the Highway Authority so long as a case could be made for the contrary view with regard to pedestrian and highway safety. The reason for refusal clearly demonstrates on planning grounds why the committee considered the proposed development unacceptable. The reason for refusal is complete, precise, specific and relevant to the application and refers appropriately to policy T10 of the Mid Suffolk Local Plan 1998. As such, I consider that the Council provided a reasonable basis for its position. Furthermore, the Council has clearly set out its reasoned justification for its reason for refusal in its appeal statement at paragraphs 5.1 to 5.13. These arguments are convincing and have led me to dismiss the appeal.

5. While the appellant argues that Little London Hill and Derry Brook Lane differ in nature and that the Council's statement is misleading in this regard, I have visited the appeal site and agree with the Council's findings that the characteristics of the 2 roads are not wholly dissimilar with respect to their width and their lack of footpath provision.
6. Although the Council has resolved to approve the further outline planning application DC/18/00192 for 8 dwellings on the southern part of the appeal site, it will be seen from my appeal decision that I have given very limited weight to the current planning application as I consider the proposed development and the current planning application to be fundamentally different. While the current planning application proposes a different pedestrian route via Derry Brook Lane, I cannot be certain that this would be achieved in the absence of a decision notice and legal agreement for DC/18/00192.
7. Turning to the second issue of the appeal site falling outside the settlement boundary for Debenham, the Council's statement refers to a change in circumstances with regard to housing land supply (HLS) since the planning application was determined. The planning officer's report makes reference to the Council being unable to demonstrate 5 year HLS and officers having "given further consideration to sites which, whilst technically contrary to adopted policy, might otherwise be considered 'well located' for access to local services and facilities and could therefore be considered 'sustainable'." While the Council's appeal statement has raised issues with regard to the location of the site outside the settlement boundary, this has only occurred as the Council considered it was able to demonstrate a deliverable 5 year HLS. I note that doubt has been cast on the level of HLS since the Council's statement was submitted. However, I consider that it was not unreasonable of the Council to address the location of the proposed development in light of their putative HLS situation.
8. Taking the final issue of inconsistency in decision-making, the appellant considers that the Council has extended the scope of the appeal by referring to development outside settlement boundaries for the proposed development, while resolving to grant permission for DC/18/00192. I have addressed both of these issues above. While the appellant considers this to be contradictory, I consider that it is a product of the time which has inevitably elapsed since determination of the proposed development by the Council and the submission of a further planning application by the appellant in seeking to address the concerns raised by the Council. This does not constitute unreasonable behaviour.

Conclusion

9. I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, an award of costs is therefore refused.

J Gilbert

INSPECTOR