
Costs Decision

Site visit made on 15 December 2020

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2020

Costs application in relation to Appeal Ref: APP/K2610/W/20/3252689 Thickthorn, 12 Church Road, Reedham, Norfolk NR13 3TY

- 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 Anthony Jacobs for a full award of costs against Broadland District Council.
 - The appeal was against the refusal of permission in principle for the demolition of the existing dwelling and replacement with four detached dwellings with parking and gardens.
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Decision

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

Reasons

2. Advice over the award of planning appeal costs is set out in the Government's Planning Practice Guidance (PPG). It states the established premise that parties to an appeal normally meet their own costs. However, 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. Unreasonable behaviour in this context may be procedural, relating to the appeal process, or substantive, relating to issues arising from the merits of the appeal. In this application the case is made that the Council had acted unreasonably over the substance of its decision.
4. Paragraph 50¹ of the PPG advises 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. It continues that where permission is refused for a proposal not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs.
5. It was not unreasonable for the Council to consider the settlement to be that defined within the boundary shown in the development plan. The Court of Appeal in the Braintree case² found that whether, in a particular case, a group of dwellings constitutes a settlement, or a village, for the purposes of the policy will be a matter of fact and planning judgment for the decision maker. It seems

¹ Paragraph: 050 Reference ID: 16-050-20140306 Revision date: 06 03 2014

² Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

entirely reasonable for the Council to have based its judgement on the development plan, rather than accepting any other interpretations of what constitutes a settlement or built-up area.

6. It was also entirely reasonable for the Council to have determined the weight given to the National Planning Policy Framework. The substantial weight this gives to the value of using suitable brownfield land within settlements for homes was not found by the Council in this case to override development plan policy. In this regard, the Council was correct to point out the clear tensions in the appellant's case over arguing both for the site to be considered as within a built-up settlement, as well as meeting the Framework definition of previously developed land.
7. The Council was furthermore not acting unreasonably in its application of development plan policies for resisting housing in locations with relatively poor accessibility to services. Whilst other developments might have been permitted within the settlement limits of Reedham, or on land specifically allocated for housing, the appeal proposal clearly did not enjoy the same degree of development plan policy support. Whilst pedestrian pavements might be generally lacking within the village, this does not make unreasonable the Council's conclusion over the appeal site's poor access to services, other than by means of private car, given the comparatively greater distances to these along unlit country roads without footways.
8. Ultimately, it was reasonable for the Council as decision-maker to decide the weight given to the various material considerations. The decision was adequately substantiated and there is not the case for finding unreasonable behaviour on the part of the Council simply on the basis that it had not fully accepted the case put forward by the appellant.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, the application for an award of costs is refused.

Jonathan Price

Inspector