
Costs Decision

Site visit made on 8 March 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 March 2021

Appeal Ref: APP/F1610/W/20/3262835

Land adjacent to Upper Siddington House, Upper Siddington, Siddington GL7 6HL

- 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 and Mrs J Hayward for a full award of costs against Cotswold District Council.
 - The appeal was against a refusal of the local planning authority to grant planning permission for development described as erection of dwelling together with detached car port and associated ancillary development.
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Decisions

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

Procedural Matters

2. The Council's response to the costs application is limited in its scope. Be that as it may, the Council has not conceded any of the grounds raised. In assessing the costs application below, I have otherwise had regard to the evidence that was before me in assessing the appeal.

Reasons

3. The Planning Practice Guidance advises that costs may 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.
4. The applicants claim that the Council acted unreasonably on grounds which are stated as:
 - (a) refusing to enter into pre-application discussions, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal;
 - (b) providing information that is manifestly inaccurate or untrue;
 - (c) making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
 - (d) failure to produce evidence to substantiate each reason for refusal at appeal;
 - (e) not determining similar cases in a consistent manner;
 - (f) imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects; and

- (g) 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.
5. Insofar as Ground (a) relates to pre-application advice, it is confirmed on the planning application form that pre-application advice was not sought in relation to the scheme. To this extent Ground (a) is irrelevant. The applicants however additionally state that the Council failed to work with them in a proactive way at a later stage in the decision-making process, contrary to the approach advocated in paragraph 38 of the National Planning Policy Framework.
 6. The parties engaged in correspondence during the course of determination, and this resulted in agreed extensions of time, partly in order to enable the applicant to provide additional material. This in itself indicates cooperation.
 7. The case officer did however refuse to accept revised plans on the basis that these may weaken the Council's case at appeal. The only logical interpretation is that such plans might have addressed some of the concerns set out in the Council's second reason for refusal. I consider this approach to have been unreasonable. However, I have been provided with no indication of what the content of such revised plans might have been, or the extent to which they would have addressed the Council's concerns. Whilst it is otherwise clear that design changes would not have avoided refusal, the extent to which issues might have been narrowed is also uncertain. I cannot therefore conclude that the applicants suffered any wasted or unnecessary expense in the appeal process. As such, Ground (a) fails.
 8. Grounds (b), (c) and (d) are inter-connected. In this regard the applicants' claim principally relates to the Council's assessment of the site's location and assessment against Local Plan policy.
 9. Determination of whether or not the site was located within a non-principal settlement, required both a general and site-specific assessment. Though to some extent therefore a matter of fact and degree, nowhere within the Council's submissions was a point of separation between Upper Siddington and Siddington identified or described. Apparent over reliance on desk based aerial and online mapping also appears to have led to identification of a measure of distance between Upper Siddington and Siddington, for which no obvious explanation exists on the ground. To this extent, the Council's identification of Upper Siddington as a settlement was vague and lacking clear substantiation.
 10. The Council's finding that the site lay outside a non-principal settlement was however not solely based upon its identification of Upper Siddington as a hamlet, but also upon the fact that the site was located within a 'field'. Elsewhere this field was described as lying beyond the settlement edge, as represented by the boundary wall of Upper Siddington House. The nature of the relationship in this case was again one of fact and degree. In this regard, whilst I found that this space forms part of the settlement, based on the evidence, the Council was equally entitled to form the view that it did not.
 11. It is therefore apparent that even had the Council concluded that Upper Siddington was part of Siddington, the site would have been found to lie outside. The Council would therefore have assessed the scheme against the same development plan policy either way, and refused the scheme on the same basis. That being so, despite aspects of the Council's assessment having

- been flawed, its overall finding in relation to the site location was not unreasonable.
12. The applicants additionally state that the Council provided inaccurate information within the appeal questionnaire regarding site visibility, and within its statement in relation to access to public transport. The part of the questionnaire relating to visibility is however solely for the purpose of informing arrangements for the appeal site visit. This error otherwise has no direct bearing on the appeal.
 13. Insofar as the Council otherwise stated at appeal that there is no frequent public transport service nearby, its statement was vague rather than clearly inaccurate. Indeed, whilst the Council appears to have based its own definition of 'nearby' on a walking distance 800 metres, I have been provided with no exact measure of the walking distance between the site and the nearest bus stop by either party. The matter was otherwise of no more than peripheral relevance, taking account of the matters not otherwise in dispute at appeal, and does not appear to have generated any quantifiable expense.
 14. The applicants additionally make oblique reference to the fact that the Council's appeal statement partly repeats the officer report. A Council is however reasonably entitled to rely on its officer report at appeal, and in this case the Council highlighted as much in its statement. For this and the above reasons, Grounds (b), (c) and (d) fail.
 15. Ground (e) relates to consistency in the identification of non-principal settlements, and as such there is again overlap with the Grounds above. In this regard the Council's reasoning in respect of another site was referenced at appeal, as too were the findings of an Inspector in relation to a further site. Both sites were located elsewhere in the District. As the determination of whether or not a site lies within a non-principal settlement is reliant on site-specific factors, this cannot be properly undertaken on the basis of conclusions drawn in relation to wholly unrelated sites. As such, on the basis of the evidence presented, I cannot conclude that the Council was inconsistent in its decision making. Ground (e) therefore fails.
 16. Ground (f) relates to the imposition of conditions. However, as the Council refused the planning application, it did not impose any. Whilst the Council nonetheless suggested conditions in the context of the appeal, the conditions imposed are those set out in my main decision. Ground (f) therefore fails.
 17. In view of my findings above, Ground (g) must also fail, as, notwithstanding the fact that I have allowed the appeal, the matters in dispute were such that this not case where the Council should have clearly permitted the development.

Conclusion

18. For the reasons set out above I conclude the applicants' claim for an award of costs should be dismissed.

Benjamin Webb

INSPECTOR