



Costs Decisions

Site visit made on 22 November 2021

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2022

Costs application in relation to Appeal Ref: APP/P3040/W/21/3279276 The Chestnuts, Costock Road, Wysall NG12 5QT

- 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 Ms Charlotte Brennan for a full award of costs against Rushcliffe Borough Council.
 - The appeal was against the refusal of planning permission for erection of one detached dwelling with improvements to existing vehicular access.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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.
3. The applicant considers that the Council's reason for refusal is based on a subjective impact and it has not determined similar cases in a consistent manner, with particular regard to a recently allowed appeal on what is considered to be a similar site¹.
4. The Rushcliffe Local Plan Part 2: Land and Planning Policies 2019 (LPP2), does not identify settlement boundaries. Instead, it states that the location of the proposal and its relationship to neighbouring buildings and the physical edge of the settlement will determine whether the application is within the settlement or within the open countryside. The Council considered, based on the site specific nature of the factors around the appeal site that it was located in the open countryside. Although I have not agreed with that assessment, I am satisfied from the Council's application report and appeal submission that it made a fair assessment of the matter at the time, taking account of relevant considerations.
5. The applicant queries the relevance of the reference to a planning application considered in 2002, given the different policy background at that time. However, this was one of many factors that was considered by the Council and was not in itself determinative. I do not consider therefore that on this matter the Council acted unreasonably, the matter is one of planning judgement based on the specific factors of each case.

¹ APP/P3040/W/20/3256980 (the Sutton Bonington appeal)

6. The applicant considers that the proposal should be considered against Policy 11 of LPP2, and I have agreed in that regard. However, while the applicant states that no demonstration of local need is therefore required, the proposal needs to be considered against the development plan as a whole. Criteria a) of Policy 11 states that the proposal in terms of scale and location should be in accordance with Local Plan Part 1: Core Strategy Policy 3 (Spatial Strategy). I have found that that would not be the case as there is no evidence to suggest the proposed house would meet a local need as required by Policy 3 in this location.
7. The Inspector in the Sutton Bonington appeal considered that an identified local need was not required to be demonstrated to make the proposal policy compliant when applying the requirements of Policy 22 given that they had found the appeal site to be part of the built up area. Furthermore, there was an allocation of dwellings within Sutton Bonington in the LPP2. As a result, the circumstances of the appeals and the settlements they relate to are quite different. Therefore, I do not consider that the Council has acted in an inconsistent manner and consequently unreasonably in this regard.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, for the reasons given above, I refuse the application for an award of costs.

Zoe Raygen

INSPECTOR