The Planning Inspectorate

Costs Decision

Hearing held on 14 March 2024

Site visit made on 14 March 2024

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2024

Costs application in relation to Appeal Ref: APP/K0425/W/23/3323862
Land adjacent to Pitch Green Farm, Chapel Lane, Pitch Green, Bledlow, HP27 9QG

- 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 A Jennings of Henry Douglas Homes Ltd for a full award of costs against Buckinghamshire Council.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the erection of a detached dwelling with access, parking and amenity space.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 contends that the proposal was wholly compliant with the development plan and advice in the Framework. Although I found in favour of the appeal, it involved a finely balanced planning judgement in assessing harm to the preservation of the listed buildings, to the character and appearance of the area, and the resulting level of compliance with the development plan. The Council placed more weight than I on the outcome of the previous appeal, and on the importance of retaining the appeal site as a field. However, the Council clearly explained its reasoning, including with relation to relevant policies and the statutory requirement relating to listed buildings. As such, I do not find that the Council was unreasonable in this regard.

4. The appellant also suggested inconsistent decision making in the assessment of character, due to the Council's recent approvals of other dwellings adjacent to listed buildings in Pitch Green, and the permitted alterations to the listed buildings adjacent to the appeal site. However, the context of those proposals were substantially different to this appeal, including the visual and historic context of the settings for the different listed buildings. Insofar as those permissions indicated that change within the setting of listed buildings can be appropriate and not harmful, they were relevant, but I did not rely upon them as heavily as material considerations as suggested by the appellant. Therefore, I find no unreasonable inconsistency has been demonstrated with relation to the effect on character and appearance.

5. The appellant contends there should have been no 'in principle' objection that the site is in an unsustainable location, due to the clarity of the spatial strategy, including support from being within the settlement boundary. However, I found the development plan held some circularity regarding the site's position within the settlement strategy. The LP has been adopted since some of the other permissions within Pitch Green, and since the NP was made. There have been no physical changes to increase the site's sustainability since the previous Inspector's decision, and there would be conflict with guidance in the Framework.

6. Furthermore, the Council also gave some explanation as to why material considerations for its other recent permissions were deemed to outweigh their unsustainable locations. I did find the lack of any compelling evidence to suggest such a difference between those sites and the appeal site, to give support for the proposal as a material consideration. However, that the Council gave this less weight, was not unreasonable as a matter of planning judgement. It was therefore not unreasonable overall for the Council to identify that there would be some harm caused due to the unsustainable location, and I found similarly.

7. The appellant also suggested orally that they had incurred additional costs in responding to the Council's comments on the Unilateral Undertaking (UU) submitted at the Hearing, alongside the Council's general lack of participation and early preparedness in drafting a bilateral S106. However, the appellant's appeal evidence, up to and including the 'Final Comments' submitted in August 2023, indicated that they considered the matter should be addressed via conditions. The pressured timescale prior to the hearing did not therefore solely result from the Council's actions.

8. A S106 would also have incurred additional legal costs paid to the Council for its drafting. In the absence of evidence to suggest otherwise, I am unconvinced that the preparation of the UU and its subsequent amendment was more expensive for the appellant, or that the amendments suggested to the UU were unnecessary. I find that wasted expense has not been demonstrated.

9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

L N Hughes

INSPECTOR