



Costs Decision

Site visit made on 16 May 2017

by Louise Nurser BA (Hons) Dip UP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 June 2017

Costs application in relation to Appeal Ref: APP/B3030/W/17/3168428 Land at Ashcroft, (north of Cherry View), off Bilsthorpe Road, Eakring NG22 0DJ

- 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 James Meanley for a full award of costs against Newark & Sherwood District Council.
 - The appeal was against the refusal of planning permission for full application for the erection of two, two-bedroomed dwellings and associated access.
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Decision

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

Reasons

2. 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. The appellant is of the view that the Council has behaved unreasonably in a substantive way. Paragraph 49¹ sets out examples of behaviour that might rise to a substantive award of costs against a Local Planning Authority and this includes delaying development which should clearly be permitted having regard to national policy, having regard to its accordance with the development plan, national policy and any other material considerations; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; acting contrary to, or not following, well-established case law; and not determining similar cases in a consistent manner.
3. The appellant also considers that the decision was made without due regard to the expert professional advice relating to conservation matters; that an appeal decision relating to a five year supply of deliverable housing had not been taken into account; no circumstances had changed since the pre application advice had been proffered; the minutes did not refer to adequate reasons for refusals including reference to the development plan and the Framework; and that some members of the Committee had been unduly influenced by a recent decision to refuse an application for eco-dwellings in the open countryside.
4. The application was recommended for approval in line with pre application advice. However, due to the objection by the Parish Council the application was determined by the Planning Committee, and subsequently refused following a

¹ ID: 16-049-20140306

site visit. However, consideration of planning applications necessarily involve matters of planning judgement and Local Planning Authorities are not bound to accept the recommendations of their officers, nor be bound by any pre application advice. Nevertheless, if officers' professional or technical advice is not followed authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence to support the decision in all respects.

5. In this case, following a site visit, Members refused the application having determined that the application was outside the main built up area of the village. The report to the Planning Committee set out clearly that the recommendation to permit the development was finely balanced between the benefit of the additional housing and determination of the development against the development plan. The Local Planning Authority gave greater weight to the adopted development plan rather than the benefit of the housing taking into account the specific aspects of the case. In the context of a clear position by the Council that it could provide a five year supply of deliverable housing, notwithstanding a previous appeal decision, where an Inspector had concluded on the balance of the evidence before them that the Council could not demonstrate a five year supply, such a position was not unreasonable.
6. The second reason for refusal concerns the effect of the proposed development on the character and appearance of the Conservation Area and its wider rural setting. These are matters of planning judgement and the Planning Committee was not bound to follow the recommendation of its officers. I have found similarly to Planning Committee on this matter in my decision to the appeal and have concluded that the appeal would not accord with the development plan.
7. In this case, the fact that the Council's own officers raised no objection to conservation matters does not mean that a refusal of permission on this ground, would of necessity, be unreasonable.
8. I turn to the issue of precedent. I note from the examples provided that the appellant could consider that the Council has taken an inconsistent approach to the determination of appeals with reference to the interpretation of Policy SP3, including not having taken into account the interpretation of the policy made at appeal. However, whilst there are clearly some similarities, each case should and must be determined on its merits. Moreover, whilst I have been provided with some details relating to each case, it is not unreasonable for the Council to treat each case on its merits and come to a different conclusion depending on the circumstances of each proposed development.
9. The Committee Report clearly differentiates between the appeal proposal and the refused application for 9 eco homes. Moreover, the appellant furnished information which was provided at Planning Committee which illustrated the difference between the two proposals. This correspondence was reported within the minutes. In the context of this information there is nothing before me to suggest that members were unable to be objective in their decision making and therefore acted unreasonably by refusing the application.
10. I note that the minutes of the Planning Committee do not refer explicitly to the specific relevant policies of the development plan, nor the provisions of the Framework, and that in an ideal world clear reference to the relevant policies would have been made. Nonetheless, in the context of the Committee Report, it is clear from reading the minutes taken, why the decision was made. Indeed,

the subsequent reasons for refusal articulate these by reference to both the adopted development plan and the Framework.

Conclusion

11. For the reasons set out above, I consider that the matter is one of disagreement between the parties which could have only been resolved at appeal. I therefore find that unreasonable behaviour resulting in unnecessary wasted expense, as described in the PPG, has not been demonstrated.
12. The application for an award of costs is hereby refused.

L Nurser

INSPECTOR