
Costs Decision

Site visit made on 2 November 2017

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 27th November 2017

Costs application in relation to Appeal Ref: APP/B3030/W/17/3180014 Land off Elston Lane, Elston, Nottinghamshire NG23 5PB

- 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 Geda Construction LLP for a full award of costs against Newark & Sherwood District Council.
 - The appeal was against the refusal of planning permission for 10 new affordable homes.
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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's main concern appears to be that the Council's Members did not accept the recommendations of their professional officers and as a result delayed development which should clearly have been permitted having regard to its accordance with the development plan, national policy and other material considerations.
4. Members are entitled to not accept the professional advice of officers provided that a planning case can be made for the contrary view. In this case, the evidence provided by the Council addresses and seeks to substantiate each point raised in their reason for refusal. The consideration of the effect of the development on the character and appearance of an area is essentially a matter of planning judgement. While I have come to a different conclusion, the fact Members decided that the development would have an unacceptable impact on the character and appearance of the area is not evidence of unreasonable behaviour.
5. In my view, whether or not the Members were satisfied by the evidence before them on alternative sites is also a matter of planning judgement. While I note the on-going liaison between the registered provider, the Parish Council and the Housing Strategy section of the Council, the Members were still entitled to come to a view as to the robustness of the evidence before them, particularly in a context where there were concerns about other impacts. It is also not clear as to what evidence on this matter was before them in the application. Although the support of the Council's housing team was highlighted, it was

perhaps not clear based on the written report what site finding exercises had been carried out. As such, concluding that additional information was required was not necessarily unreasonable behaviour in this case.

6. It is also far from clear that even if the Council had been satisfied about alternative sites that it would have resulted in a different decision. The Council's concerns over character and appearance would have remained in place. While the planning balance would have been different, from what I have before me I am not convinced that it would necessarily have averted the appeal. As such, I do not consider that there evidence of wasted expense.
7. Finally, the weight given to any particular material consideration is an issue for the decision maker and is also a matter of planning judgement. Again, while I have formed a different judgement to the Council, I do not consider it is unreasonable behaviour for them to consider that the harm associated with the development would outweigh any benefits associated with the affordable housing or that the potential existence of alternative sites would be a material consideration.

Conclusion

8. Taking all matters into account, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

S J Lee

INSPECTOR