



Costs Decision

Site visit made on 2 July 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2019

**Costs application in relation to Appeal Ref: APP/W3005/W/19/3226628
Land rear of 319-331 Alferton Road, Sutton-in-Ashfield, Nottinghamshire
NG17 1JN**

- 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 Emma and Lewis Caswell for a full award of costs against Ashfield District Council.
 - The appeal was against the refusal of planning permission for approval of reserved matters following outline approval of planning permission V2016/0617.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (the PPG) indicates 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. Examples of unreasonable behaviour by Local Planning Authorities are set out in Paragraph 049 of the PPG.
4. The applicant considers that the refusal of the application by the Local Planning Authority is unreasonable behaviour, as at no point in the outline application did the Council raise issues in relation to the positioning of the dwellings, nor did the Council add a condition or informative. The applicant also contends that the policy references are unreasonable, whilst Members of the Committee debated reasons that were irrelevant. As a result of the refusal of the planning application, the applicant has suffered delays to construction and incurred additional expense.
5. In this case I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
6. The absence of Council comments on the positioning or design of the dwellings at outline stage is irrelevant. The only issue to be determined at outline stage was means of access. The Council could, quite rightly, consider the design and positioning of the dwellings at the time of the reserved matters submission. It is not incumbent upon the Council to give a view upon matters not under discussion as part of the outline planning application at that time.

7. With regard to the conduct of Members at Committee, discussion that may have taken place for what the applicant considers to be irrelevant matters did not form any part of the reason for refusal, and therefore does not constitute unreasonable behaviour on the part of the Council.
8. I find that the Council reached a rounded view in taking the decision and considered all relevant matters. The reason for the refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states which policies of the Ashfield Local Plan Review that the proposal would be in conflict. This reason has been adequately substantiated by the Council in its Appeal Statement.
9. This appeal decision is, however, ultimately a matter of planning judgement. The applicant and I may have reached a different judgement to the Council but that does not make its position unreasonable
10. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The appellant had to address those concerns in any event.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul Cooper

INSPECTOR