



Costs Decision

Site visit made on 27 August 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2019

Costs application in relation to Appeal Ref: APP/Y3940/W/19/3227188 Land Southwest of Middleton Road, Winterslow, Wiltshire SP5 1RU

- 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 Primetower Properties for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission described as "Outline application (all matters reserved except access) to erect up to 22 market dwellings, 9 affordable dwellings, and 4 elderly bungalows; provide a new access from Middleton Road and pedestrian footpath alongside Middleton Road; provide circa 4,500m² of public open space including 'LAP' children's play area, ecological buffer to Brown's Copse, and drainage detention basin (resubmission of application 17/02002/OUT)."
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Decision

1. The application for costs is refused.

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The primary reason for the application for costs relates to whether the Council should have contended they did have a sufficient housing land supply at the time of the planning application decision in November 2018.
5. It is apparent that the issue of housing land supply was discussed at a public inquiry held in relation to appeal APP/Y3940/W/18/3200041 at Alderbury in Wiltshire. The appellant states that at the inquiry the Council stated that they had a housing land supply of around 4.8 years. However, it is my understanding that the decision for the Alderbury appeal was issued after the planning decision to refuse permission for the Middleton Road site.
6. There was discussion as to what approach was used to calculate the housing land supply figure, which seemed to be an ongoing issue at the Inquiry. It is

also seemingly apparent that at the Inquiry there may have been some acknowledgement that the Council could not demonstrate a sufficient housing land supply. However, this matter was not confirmed until the appeal decision was issued after the planning application was determined for this Winterslow site. As such, I am not satisfied from the evidence before me that the Council had conclusive evidence of the level of housing land supply being deficient at the time of the decision for the planning application at Winterslow. In this regard I do not consider that they have acted unreasonably.

7. Furthermore, I do not regard it likely that if it was confirmed that the housing land supply was less than 5 years then this would have changed the decision of the Council on this application. The Council has made clear in their appeal statements submitted, at a time when the Council knew they did not have a sufficient housing land supply, that they still wish to defend their decision to refuse the proposal. In this regard, it seems likely an appeal with all related costs would have been a likely outcome even if the Council knew they had an insufficient housing land supply at the time of the planning application decision.
8. On another issue, the Council has acknowledged that the appellant submitted a Landscape and Visual Impact Assessment (LVIA). Whilst I recognise the Council's Statement says that their landscape team is still looking at this document it does still give a full and detailed explanation of their reason for refusal on this issue. As such, I do not recognise there being any unreasonable behaviour in this regard.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

S. Rennie

INSPECTOR