



Costs Decisions

Site visit made on 15 October 2019

by Julia Gregory BSc(Hons) BTP MRTPI MCMI

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

Decision date: 28 November 2019

Costs application A in relation to Appeal Ref: APP/B3030/W/19/3234470 Springfield Bungalow, Nottingham Road, Southwell NG25 0QW

- 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 Springfield Eco Ltd for a full award of costs against Newark & Sherwood District Council.
 - The appeal was against the refusal of planning permission for residential development of 38 dwellings and conversion and extension of existing residential property to form 12 supported living units without complying with a condition attached to planning permission Ref 15/01295/FULM, dated 13 December 2017.
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Costs application B in relation to Appeal Ref: APP/B3030/W/19/3234471 Springfield Bungalow, Halloughton Road, Southwell NG25 0QW

- 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 Springfield Eco Ltd for a full award of costs against Newark & Sherwood District Council.
 - The appeal was against the refusal of planning permission for alteration of existing vehicular access on Halloughton Road, installation of kerb radii and provision of visibility splay without complying with conditions attached to planning permission Ref 16/01369/FUL, dated 31 March 2017.
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Decisions

1. The applications for awards of costs in both appeals are allowed in the terms set out below.

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.
3. As the application and response have been made in writing I shall not repeat them in any great detail. The essence of the costs claims is that the appellant considers that the Council was wrong to refuse planning permission because the Highway Authority did not object to the revised access and the applications were recommended for approval by Council officers. It is submitted that the decision is unsubstantiated and that the Committee decisions have prevented development that should clearly be permitted in accordance with the development plan and national policy.
4. The Council considers that costs would not be justified because the Highway Authority had revised comments during the course of the applications, the access was constructed before any formal determination, not in accordance

- with the approved plans, there was deviation from highway guidance and there was a dilution of the previously approved scheme.
5. I have allowed both appeals and therefore it follows that I consider that subject to the imposition of replacement conditions that the decision to refuse planning permission in both cases was not justified on the evidence.
 6. The consideration of planning appeals does depend on a degree of planning judgement on the evidence. Here the evidence was not insufficient from the Council to justify deviating from the advice of the Highway Authority who have the expertise in such matters and deal with many accesses locally and so can take an informed view on such matters.
 7. Members are entitled to disagree with their officers and with the advice of statutory consultees, but they must have the evidence to justify their position. I appreciate that it is difficult reaching decisions when there have been other issues such as flooding and it is clearly undesirable for development to be constructed that does not accord with approved plans and needs to be altered.
 8. Nonetheless, I am considering the scheme before me which seeks to resolve construction matters and establish a maintainable visibility. The appellant is aware of the defects with the access as built and is proposing to rectify those defects. Indeed the highway authority contracting arm has responsibility for making those alterations. The scheme is based on those revisions. As I have set out in my decisions, it is possible to consider the applications in retrospect. That should have no bearing on the outcome of the decisions.
 9. Given that guidance should not be applied rigidly, that these are very modest changes, and on the basis that there was little technical evidence about any harm to highway safety, I consider that the refusal of planning permissions was unwarranted. The costs are limited to those of the appeal process rather than any delay during the application processing or any delay to the development.
 10. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified in both appeals.

Costs Orders

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Newark & Sherwood District Council shall pay to Springfield Eco Ltd, the costs of the appeal proceedings described in the heading of these decisions; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Newark & Sherwood District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Julia Gregory

Inspector