



Costs Decisions

Hearing held on 11 March 2020

Site visit made on 11 March 2020

by C L Humphrey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th June 2020

**Costs application in relation to Appeal A Ref: APP/B3030/W/19/3234051
Land off Lower Kirklington Road, Southwell, Nottinghamshire
Grid Reference Easting: 469657, Grid Reference Northing: 355073**

- 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 Christopher Richardson (CAPLA Developments Ltd) for a full award of costs against Newark & Sherwood District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for development originally described as 'Residential development for 105 dwellings.'
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**Costs application in relation to Appeal B Ref: APP/B3030/W/20/3244627
Land off Lower Kirklington Road, Southwell, Nottinghamshire
Grid Reference Easting: 469657, Grid Reference Northing: 355073**

- 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 Christopher Richardson (CAPLA Developments Ltd) for a full award of costs against Newark & Sherwood District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for residential development for 80 dwellings.
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Decision

1. The application for an award of costs is refused in respect of Appeal A and Appeal B.

The submissions

2. The application for costs was made in writing, as was the Council's reply to the costs application and the applicant's final reply.

Reasons

3. 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.
4. Paragraph 49 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples of this set out in the PPG and cited by the applicant include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national

policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and not determining similar cases in a consistent manner. The applicant also contends that the Council made its decisions on 'a wrong factual premise' and changed its case and moved 'well outside the reasons for refusal in the hearing.'

5. The first refusal in relation to Appeal A and the putative reason for refusal in respect of Appeal B, arising from amended plans submitted at appeal stage, are complete, precise and relevant to the proposed development, and clearly explain the conflict with development plan policies as well as the National Planning Policy Framework (Framework) and PPG.
6. The Planning Committee meeting minutes referred to in the applicant's application for costs state there are 'no other traffic lights on similar sites in Southwell.' It will be seen from my appeal decisions that I agree with Council Members; the site of the traffic lights at the pedestrian crossing in the built up area is not comparable to the site of the proposed signal controlled junction on the very edge of the settlement. My appeal decisions also find there are clear differences in form and function between a mini roundabout and a 4 arm signalised junction and that, whilst highway authorities can undertake works for the maintenance or improvement of the road as permitted development, the appeal schemes must be considered against the development plan and other material considerations. At the Hearing, the Highway Authority confirmed it had never required a signal controlled junction; this had been recommended as a way forward, but it had never been presented with another option.
7. I conclude in my appeal decisions that the proposed 4 arm signal controlled junction would result in an inappropriate visual intrusion in a key gateway location and the appeal proposals would not achieve a well-designed place, contrary to development plan policy, the Framework and PPG. It follows that I am satisfied the Council was able to substantiate this reason for refusal.
8. In respect of Appeal A reason for refusal 2, the Council's assessment of the appellant's offer of a condition is given in Appendix E of its statement of case and was reiterated at the Hearing. As set out in my appeal decisions, I agree that the failure to provide any bungalows could not be adequately addressed by condition; the Council's position in this regard is not unreasonable.
9. As will be seen in my appeal decisions, there are material differences between the site layouts proposed in Appeal A and Appeal B. Thus, I do not consider it was unreasonable of the Council to pursue reason for refusal 4 on Appeal A.
10. In relation to parking provision and an alternative access to the site, the Council did raise wider concerns at the Hearing than those set out in the reasons for refusal and written evidence. However, this did not amount to substantial evidence and did not necessitate an adjournment or incur extra expense for work that would not otherwise have arisen.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

CL Humphrey
INSPECTOR