

Costs Decision

Hearing Held on 31 July 2020

Site visit made on 3 August 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2020

Costs application in relation to Appeal Ref: APP/U2805/W/19/3238467 Land to the east of Little Lane, Stanion

- 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 Mayfair Homes Limited for a partial award of costs against Corby Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the erection of 5 dwelling houses including associated infrastructure and landscaping.
-

Decision

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

The submissions for Mayfair Homes Limited

2. A partial award of costs is sought on substantive grounds. The Council behaved unreasonably, particularly in relation to its second reason for refusing planning permission, which relates to the effect upon highway safety. They failed to produce evidence to substantiate this reason for refusal or their finding of severe harm and failed to assess related evidence that was submitted. The Council has failed to get to grips with the planning policy position and has instead referred to non-applicable standards. Several points of clarification raised at the hearing were not responded to. Vague, generalised or inaccurate assertions about the proposal's impact were made, that were unsupported by any objective analysis. The Highway Authority (the HA) was not present at the hearing to defend its written position.

The response by Corby Borough Council

3. It was not mandatory for the HA to attend the hearing. If that were the case, the Council's Conservation Officer should also have attended. The comments and observations of statutory consultees are adequately captured within the officer report and there is no need to punish the Council for the HA's absence at the event. A fair and balanced assessment of the evidence has been undertaken. The Council has relied upon and further articulated the highway officer's comments, has not introduced new material and has made its concerns clear. The burden falls upon the applicant to demonstrate an appropriate scheme.

Reasons

4. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
5. It is unfortunate that the HA chose not to attend the hearing in order to defend its written position. Indeed, their presence would have likely added some clarity and insight to the highways-related discussion that took place at the hearing. Nevertheless, their attendance was optional and I shall consider the merits of this application accordingly.
6. It is apparent from the Council's officer report, and from discussions that took place at the hearing, that the Council's position on highways matters was driven by observations received from the HA. Whilst the HA are responsible for the safety of road users on the local highway network and play an important role, it would appear that an over-dependence was placed upon the HA's comments at the expense of the Council undertaking objective analysis of its own in their role as the determining local planning authority.
7. This lack of objective analysis was perhaps best highlighted at the hearing where a thorough understanding of the applicant's case and the associated submitted material was not demonstrated. Furthermore, clear and intelligible reasons for why submitted evidence/data should not be relied upon were not forthcoming and somewhat vague assertions about the proposal's impact were made. This was unreasonable behaviour.
8. Nevertheless, reference was given, both in written evidence and at the hearing, to the absence of footpaths, to Little Lane's width and bend and to the intensification of the Lane's use. As will be seen from my decision upon the planning appeal that is the subject of this application, these were all factors that contributed towards me ultimately identifying that the scheme would have a harmful effect upon highway and pedestrian safety.
9. I note that Little Lane is an existing adopted highway and that the Council referred to standards for new roads as part of its submissions. Nevertheless, modern standards for new roads provided relevant context in this case and it was not wholly unreasonable, in my view, for any such standard to have influenced the Council's considerations. It is also important to note that the Council was able to pinpoint conflict with a relevant development plan policy, namely Policy 8 of the North Northamptonshire Joint Core Strategy (July 2016).
10. For the above reasons, notwithstanding the unreasonable behaviour that I have identified, it has not been demonstrated that the approach taken by the Council in imposing and subsequently defending its second reason for refusing planning permission has resulted in unnecessary or wasted expense being incurred during the appeal process. Thus, having had regard to all other matters raised, an award of costs is not justified.

Andrew Smith

INSPECTOR