



Costs Decision

Site visit made on 28 July 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2020

Costs application in relation to Appeal Ref: APP/E3715/W/20/3250957 The Old Pastures, Moor Lane, Willoughby, CV23 8BT

- 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 Ms Jane Edgar for a full award of costs against Rugby Borough Council.
 - The appeal was against the refusal of planning permission for demolition of the existing garage and erection of a new dwelling for over 55's.
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Decision

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

Reasons

2. Paragraph 030 of the 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. Paragraph 049 of the 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 applicant states that the appeal was unnecessary as the Council failed to consider, or attach sufficient weight to, the identified shortfall of specialist housing in the Borough for over 55s, and an appeal decision for another nearby site, which they consider raised identical issues to the appeal proposal. It is also stated that the Council have not determined similar cases in a consistent manner. They consider the Council has behaved unreasonably in determining the planning application and the appeal could have been avoided.
5. The reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the Rugby Borough Council Local Plan, 2019 (LP) and Willoughby Neighbourhood Development Plan, 2019, (NDP) that the proposals would be in conflict with.
6. The Officer report does correctly identify the site as being within a countryside location and attaches significant weight to the conflict that would arise with the LP and NDP as a result of development proposed in such a location.

7. The proposals were amended during the application process and it is noted that these changes related to providing accommodation that was more suited to meeting the needs of the over 55s. The Council acknowledges the identified need for such housing in the LP and NDP and consider the provision of affordable housing.
8. These were therefore clearly matters the Council were considering in their determination of the appeal scheme and there is little indication that they did not fully assess the potential benefits or attribute them with sufficient weight in the overall planning balance.
9. With regards to consistency, I note the reference to the other appeal decision is not detailed, and the Council could have been more helpful in setting out why that decision did not lead them to a different conclusion. However, it is clear that the Officer was aware of the other appeal decision and its findings and took it into consideration in their determination of the appeal scheme. It is evident that they did not consider the benefits in this case outweighed the conflict with the LP and NDP, and which they had clearly set out.
10. For the reasons set out in the appeal decision I too have found that the conflict with the LP and NDP was not outweighed by other considerations and I came to that decision on the basis of my consideration of the details and merits of the scheme, having regard to all the evidence submitted.
11. Accordingly, I do not consider 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.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

A Denby

INSPECTOR