



Costs Decision

Site visit made on 10 November 2020

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2021

Costs application in relation to Appeal Ref: APP/Y2810/W/20/3257562 Southolm, 15 Station Road, Long Buckby, Northamptonshire, NN6 7QB

- 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 Teeton Homes for a full award of costs against Daventry District Council.
 - The appeal was against the refusal of the Council to grant planning permission for: Demolition of existing house and construction of 5 No detached bungalows with associated parking (outline).
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The appellant submits that the Council has acted unreasonably in that it has gone against the professional advice of its officers without good reason and failed to substantiate its objections that the proposal was contrary to the Council's policies for housing in the rural areas of the District, and that it would be an incongruous form of development that would detract from the character, layout and appearance of the site and surrounding area and would lead to overdevelopment of the site. The appellant also says incorrect weight was afforded to guidance over policy and what is stated to be inaccurate and incorrect information raised by Councillors at the Planning Committee meeting, leading to an incorrect assessment of the proposal and inaccurate statements.
3. Paragraph 030 of the *National Planning Practice Guidance* (PPG) says that irrespective of the outcome of the appeal, costs can only be awarded against a party which has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary or wasted expenses in the appeal process.
4. PPG paragraphs 047-049 set out situations which may result in a substantive or procedural award of costs against the local planning authority, although is not intended to be exhaustive or cover all situations
5. PPG paragraph 048 makes it clear that a Local Planning Authority is at risk of an award of costs if it behaves unreasonably with regard to the substance of the matter under appeal, for example by preventing or delaying development which should clearly be permitted having regard to the development plan and other material considerations, by failure to produce evidence to substantiate the reasons for refusal, and/or giving vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by objective analysis..

6. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate through its statement of case why the proposal is unacceptable, and provide clear evidence to substantiate that reasoning.
7. In this case, and notwithstanding the fact that the housing target for development in the rural areas has been exceeded, the planning officer took the view that overall the proposal would comply with JCS Policy R1, and expressed the view that the proposal provided a unique opportunity to gain five smaller bungalows within the in close proximity to the centre of the village and hence in a sustainable location.
8. However, the Council's position now represents the opposite view, saying the proposal conflicts with the second part of Policy R1 in that the development would be out of character with the form and character of the settlement. Significantly it says the proposal would not accord with R1 b), which seeks to protect land of particular significance to the form and character of the village, even though the existing garden is not identified as an important space within any public documents. Moreover, the Council's statement of case says the proposal would lead to a cramped form of development and represent over-development, although has failed to adequately justify its reasoning. Although not mentioned within the reasons for refusal it also says the proposal would be harmful to the street scene in this part of Station Road, although again has not provided adequate reasoning.
9. No reference is made in the statement of case to the limited support offered by LP Part 2 Policy RA1 to some development within the confines of Primary Service Villages to ensure that the role of these villages are protected; to earlier housing schemes within the village permitted after the rural housing target had been met, to compliance with other relevant policies of the development plan, and to other material considerations including the support in the National Planning Policy Framework (the Framework) which seeks to promote sustainable development in rural areas.
10. In the planning judgement, it appears to me that the having regard to the provisions of the development plan, national planning policy, and other material considerations, that the development proposed should have reasonably been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the basic guidance in the Framework and PPG, and the appellant has been faced with the unnecessary expense of lodging the appeal.
11. The appellant refers to 'personal and inaccurate facts' presented by Councillors in the debate and which may have influenced the outcome. However, the purpose of the costs regime is not to resolve every allegation of unreasonable behaviour. Rather it is to decide whether an award of costs is justified or not on the available evidence.
12. In my appeal decision I have reached a different conclusion from the Council on the merits of the proposal. Nonetheless, for the above reasons I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG Paragraph 048, has been demonstrated in this case, and that a full award of costs is justified.

Costs Order

13. 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 Daventry District Council shall pay to Teeton Homes the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. The applicant is now invited to submit to Daventry 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.

Nigel Harrison

INSPECTOR