
Costs Decision

Site visit made on 19 January 2021

by Paul Singleton BSc MA MRTPI

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

Decision date: 27 January 2021

Costs application in relation to Appeal Ref: APP/E2001/W/20/3259415 Avalon, Butt Lane, Tickton, Beverley HU17 9SF

- 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 G Marshall for a full award of costs against East Riding of Yorkshire Council.
 - The appeal was against the refusal of planning permission for two detached dwellings with access from Butt Lane.
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Decision

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

Reasons

2. The applicant has not stated whether he is seeking a full or partial award of costs. On the basis that he argues that the appeal should not have been necessary, I have treated the application as being for a full award.
3. The Government's 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 or wasted expense in the appeal process. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the appeal, for example by unreasonably refusing an application, or by a failure to produce evidence to substantiate each reason for refusal on appeal.
4. There is no statutory requirement that the Council's elected members should determine applications in accordance with their officers' recommendations provided that they have clear planning reasons for not accepting those recommendations. In this case, the Decision Notice clearly sets out the Committee's concerns that the erection of two detached dwellings would result in a cramped form of development and the overdevelopment of the site, thereby resulting in harm to the character and appearance of the area. This is a matter of planning judgement. I have come to a different conclusion in allowing the appeal but that does not mean that the Council acted unreasonably in reaching its conclusions as to the likely effects of the proposal.
5. The site layout, building and elevation drawings are indicative. However, it is reasonable to conclude that the applicant's purpose in submitting these was to demonstrate that the site could accommodate two detached dwellings without a significant adverse effect on the site or its surroundings.

6. While not considering the detail, I have used those indicative drawings in making my assessment of the site's capacity to accommodate 2 detached dwellings set in their own plots, together with the requisite private amenity space, access, turning area, and parking spaces, without the risk of undue harm either to the character and appearance of the area or to the living conditions of the future occupiers of the proposed dwellings or neighbouring residents. I have also had regard to the size and scale of the surrounding dwellings and of their building plots.
7. It was perfectly reasonable for the Committee also to use the indicative drawings, in conjunction with their local knowledge of the area and, no doubt, of the size and scale of the existing properties in this location, to come to a different judgment as to the effect that the development of 2 detached dwellings, together with their access and associated requirements, might have on the character and appearance of the area.
8. The officer report made it clear that the plans are illustrative and that all detailed matters were reserved for subsequent approval. The Committee minute records that this advice was restated at the meeting. On the evidence available I am not able to conclude that the members did not understand the status of the plans or that they gave undue weight to the details on those plans in reaching their decision on the application.
9. I do not agree that the reason for refusal is based upon design considerations. It simply states the Council's view that the use of the site for two detached dwellings would result in the overdevelopment of the site, leading to a cramped form of development and a consequential adverse effect on character and appearance. There is nothing in that wording to suggest that the reason is founded on the detail of the siting, scale, massing, or design of the dwellings as indicated on the illustrative plans.
10. The reason for refusal summarises the requirements and objectives of Local Plan Strategy Document Policy ENV1 but does not, in terms, allege conflict with any specific part of that policy. In view of its conclusions as to harm to character and appearance, I see nothing unreasonable in the Council asserting that the use of the site for 2 detached dwellings would not contribute to two of the main objectives of ENV1 as set out in part A and the introduction to Part B of the policy. My planning judgement as to harm to character and appearance leads me to a different conclusion to that reached by the Council. However, that does not render the Council's findings on the outline proposal's general compliance with Policy ENV1 unreasonable.
11. For these reasons, I find that no unreasonable behaviour on the Council's part has been demonstrated and that the application should be refused.

Paul Singleton

INSPECTOR