



Costs Decision

Site visit made on 23 February 2021

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th March 2021

Costs application in relation to Appeal Ref: APP/Y3425/W/20/3260637 Land east of Castle Street, Eccleshall, Stafford, ST21 6EZ

- 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 St Philips for a full award of costs against Stafford Borough Council.
 - The appeal was against the refusal of planning permission for a proposal described as *"the development of up to 37 residential dwellings (Use Class C3), with means of site access from A519, Castle Street; earthworks to facilitate surface water drainage; and all other ancillary and enabling works. All other matters such as layout, scale, appearance and landscaping are reserved for subsequent approval"*.
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Decision

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

Reasons

2. Planning Practice Guidance 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.
3. The appellant submits that the Council has acted unreasonably in that it has prevented development which should clearly have been permitted, having regard to its accordance with the development plan. It is also contended that it failed to consider whether material considerations would outweigh any conflict with the development plan, and that it failed to produce any objective analysis to substantiate its reason for refusal. Moreover, it is asserted that the Council refused planning permission on a ground capable of being dealt with by condition, and that it took an inconsistent approach compared to its determination of other similar applications in the area.
4. For the reasons set out in my decision, I consider that the location of the proposed attenuation area is contrary to Policies SP7 and C5 of the Plan for Stafford Borough (2014). The development plan is the starting point for decision making, and paragraph 12 of the National Planning Policy Framework advises that where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Whilst it was open to the council to consider whether the material considerations in this case outweighed the conflict with the development plan, that is a matter of planning judgement. In this regard, I note that the Officer Report contained a 'planning balance' section which concluded that the conflict with policy was not

outweighed by the benefits of the development. It was not unreasonable for the Council to reach that view.

5. It is also asserted that the Council failed to provide evidence to substantiate its position that the attenuation area would be likely to harm the rural character of the area. However, the Council stated that this would be a large urban feature which, based on the description provided in the submitted Flood Risk Assessment and Outline Drainage Strategy, would include significant hard landscaping features. Any assessment of the effect of a proposal on the character and appearance of an area inevitably involves a degree of planning judgement, and the Council did not act unreasonably in coming to that view. Moreover, given that it objected to the principle of this part of the development being located outside of the settlement boundary, it is not clear that this matter could have been dealt with by condition.
6. My attention has been drawn to a recent approval (Ref 17/27766/FUL) for 24 dwellings on a nearby site that included a pumping station wet well on land outside of the settlement boundary. However, the full details of that case, including the approved plans, are not before me. Moreover, that scheme was for 100% affordable housing and so was capable of being considered as a 'rural exception site' under Policy C5 of the Plan for Stafford Borough. Accordingly, it is not clear that the Council acted inconsistently in this regard.
7. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Thomas Hatfield

INSPECTOR