



Costs Decision

Hearing Held on 16 March 2021

Site visit made on 17 March 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2021

Costs application in relation to Appeal Ref: APP/G1630/W/20/3255200 Land adjacent to Rosedale, Boddington Road, Staverton GL51 0TW

- 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 and Mrs Brown for a full award of costs against Tewkesbury Borough Council.
 - The appeal was against the refusal of planning permission for construction of three new dwellings.
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Decision

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

Preliminary Matter

2. The application, the Council's response and final comments from the appellant were all submitted in writing prior to the hearing. No further verbal comments for or against the application were made at the hearing.

Reasons

3. The 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. This application claims unreasonable behaviour by the Council in terms of (i) adopting an unreasonable approach in reaching its decision and failing to justify its decision, and (ii) not determining similar cases in a consistent manner.
4. The appellants state that during the course of the planning application, they have been guided by advice from the Council's planning and housing officers. Advice that a local housing needs survey report should be submitted is understandable given the development plan policy requirement to show a clear need for local affordable units in respect of rural exception site proposals. Also, it is reasonable for the Council to advise the appellants to seek assistance from a rural housing enabler or rural community council as these parties have prepared a number of housing needs surveys in Tewkesbury Borough. Concern was raised by the planning officer with the survey methodology during the course of the application, however this is not reflected in the Council's refusal reasons or appeal submissions.
5. An email from the Council's strategic housing and enabling officer indicates support for the survey findings and the view that they demonstrate a local

need. However, there is no evidence before me that shows the Council's housing officer considered whether the identified need could be met elsewhere. This is a separate question which involves interpretation of the survey results as well as careful consideration of the local and wider housing context. As such, it is reasonable for the Council to advance a case that the identified housing need could be addressed at large scale housing schemes away from the site, despite the housing officer comments and my own findings on this matter as set out in the appeal decision.

6. Criticism is levelled at the Council for not raising the potential concern in respect of alternative sites as part of the advice given to the appellants. However, the development plan policy clearly requires consideration of alternatives if a local need exists and the relevant policies are referred to in the appellants' application documents. As such, the Council has been reasonable in its interpretation of the policy and there is no evidence that relevant policy advice has been withheld from the appellants.
7. The Council planning officer's report on the application sets out the housing land supply position and acknowledges the proposal's contribution to the housing stock. As such, it provides evidence that the Council has assessed the proposal objectively. The officer's report fails to set out the position in respect of housing delivery on allocated sites but this matter is covered in the appeal submissions. Therefore, I am satisfied the issue has been properly taken into account by the Council.
8. For the above reasons, I find the Council has adopted an appropriate approach in the provision of advice to the appellants and in reaching its decision to refuse planning permission. While I have arrived at a different decision, the Council has provided evidence to support its views. As such, there has been no unreasonable behaviour in these regards.
9. The St Clair Cottages planning application would have been considered in light of the different survey information and housing supply context at the time it was determined. The planning application leading to this appeal was supported by a new survey report and would have been considered in light of a different context in terms of housing supply position, the weight to be attributed to emerging development plan policies and the delivery of housing on the allocated sites. As such, it is not inconsistent for the Council to have determined the appeal proposal differently to the St Clair Cottages scheme.
10. For these reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, an award of costs is not justified.

Jonathan Edwards

INSPECTOR