The Planning Inspectorate

Costs Decision

Site visit made on 25 May 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 June 2021

Costs application in relation to Appeal Ref: APP/K2420/W/21/3269712
Land East Of Peckleton Lane, Desford LE9 9JU

- 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 Owl Homes for a full award of costs against Hinckley and Bosworth Borough Council.
- The appeal was against the refusal of planning permission for erection of 5 dwellings.

Decision

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

Reasons

2. 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) failing to produce evidence to substantiate the refusal reasons, (ii) making vague and generalised assertions about the impact of the proposal and (iii) preventing development which should clearly have been permitted.

3. The decision to refuse planning permission was made by the Council's planning committee against the advice of its officers. The Council is not duty bound to follow this advice but it has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate its reasons.

4. The Council has submitted an appeal statement which supplements the refusal reasons as set out on the decision notice. These documents explain why the Council considers the development would have an unacceptable effect on the character and appearance of the area. Also, they set out why the Council considers the proposal would be contrary to the development plan. As such, evidence has been provided to substantiate the Council's position in respect of the development.

5. The Council's submissions include descriptions of the site and its surroundings as well as the proposal's effects on the area. The points of concern, such as loss of openness and impact on the landscaped setting of the public right of way, are quite clearly set out and so they are not vague. The question as to whether a proposal would have a harmful effect on the character and appearance of an area is a matter of planning judgment. Furthermore, there is no evidence before me that demonstrates the Council has not been objective in carrying out its assessment. It is evident from the plans that the proposal

would include housing near to the public right of way and so it is not unreasonable to contend it would lead to a narrow passageway with a hard edge. Also, I have identified harm would be caused to the setting of the footpath and so it is fair for the Council to hold similar views.

6. The report to the Council's planning committee sets out the terms of the National Planning Policy Framework's presumption in favour of sustainable development and identifies benefits associated with the scheme. It demonstrates that the Council has had regard to these factors in arriving at its decision. The weight to be attached to the benefits and adverse effects of the proposal are a matter of planning judgement to be determined by the decision maker. As such, I am satisfied the Council has not prevented development which clearly should have been allowed, although I have arrived at a different overall conclusion.

7. For these reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. Therefore, an award of costs is not justified.

Jonathan Edwards

INSPECTOR