



Costs Decision

Site visit made on 18 May 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2021

Costs application in relation to Appeal Ref: APP/T2405/W/21/3267969 Trois Acres, Forest Road, Lubbethorpe LE19 3LR

- 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 Adrian Sykes - Skye Property Group Limited for a full award of costs against Blaby District Council.
 - The appeal was against a refusal to grant planning permission for demolition of existing dilapidated buildings. Following which, a self-build development.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. The PPG provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include preventing or delaying development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations, refusing planning permission on a planning ground capable of being dealt with by conditions, or where new reasons for refusal are introduced.
3. The applicant suggests that the Council ignored elements of their planning submission. However, there is a fundamental difference between ignoring information and reaching one's own conclusion. In this case, I find that the Council was entitled to reach its own conclusions and did so based on a sound assessment of the proposal against the development plan and national guidance.
4. I have seen the emails between the applicant and the Council with the case officer which initially indicated that follow up bat surveys could potentially be conditioned. However, the Council's formal decision was in line with the clear government guidance that it is essential to establish the extent to which protected species may be affected by a development before planning permission is granted. Even had this matter had been satisfactorily addressed, it is unlikely that this would have overcome the Council's concerns in respect of the principal of the development in a countryside location.
5. Concerns are also raised that additional speed survey work was requested. However, the Highway Authority provided reasonable justification for this and it

was entirely reasonable that the Council sought further information on the basis of the advice of this statutory consultee. In any case, the Council were subsequently convinced that the proposal would be acceptable in terms of the proposed vehicular access arrangements and did not refuse the application on highway safety grounds. Therefore, this particular issue was not a matter which necessitated an appeal.

6. Whilst the Council referenced some of the indicative design elements in its officer report, it is clear that the scale and layout of the proposal were of particular concern. I have also found that these matters for which approval was specifically sought would result in a development which would have a significantly adverse effect on the character and appearance of the area.
7. Rather than introducing new reasons for refusal, the Council has sought to further clarify its position that the site is not sustainably located. The suggested right of way across a field and footpath provision on the B582 cannot be secured by condition based on the plans provided. Additionally, the applicant's appeal submission does not include any completed legal obligations to secure any such footpath links or self-build housing. I am not persuaded that working in a positive or proactive manner to request such agreements would have overcome the Council's fundamental concerns about the location of the development and the harm to the character and appearance of the area and protected species.
8. For the reasons set out, I therefore find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

M Russell

INSPECTOR