



Costs Decision

Inquiry Held on 11-14 May 2021

Site visit made on 18 May 2021

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2021

Costs application in relation to Appeal Ref: APP/B3030/W/20/2655876 Land off Eakring Road, Bilsthorpe, Newark and Sherwood, Nottingham NG22 8PZ

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Miss Elizabeth Woodhouse of Keepmoat Homes for a full award of costs against Newark & Sherwood District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for 103 dwellings and associated access and infrastructure.
-

Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the other party applying for costs to incur unnecessary or wasted expense in the appeal process. Awards against local planning authorities may be either procedural relating to the appeal process or substantive, relating to the planning merits of the appeal. The applicant is seeking a full award of costs on procedural and substantive grounds.
3. The case is predicated on the basis that the number of dwellings proposed and their subsequent density, as a result of the proposed dwelling types, is inappropriate for the site. An acceptance by the Council that a development of 103 dwellings may be acceptable in principle did not mean that the Council's objection to the specifics of the proposed scheme of 103 dwellings was unreasonable.
4. The applicant is of the view that planning permission should not have been refused on landscape grounds as the matter was capable of being dealt with by means of a planning condition. Paragraph 54 of the National Planning Policy Framework requires Councils to consider whether otherwise unacceptable development could be made acceptable through the use of conditions. However, the Council was of the view that the perceived shortcomings of the scheme could not be dealt with by condition. Whilst I disagree, the Council was entitled to take this view and therefore did not act unreasonably in this matter.

5. The Council's reason for refusal states that there are significant design compromises in the scheme. In the first instance reference is made to a 'skew towards larger units' failing to represent the preferences of the latest District wide housing needs evidence. In the evidence before me this was not the case.
6. The Council's housing need witness confirmed that there is a strong and very significant demand for 3-4 bedroom homes and 2 bedroom affordable housing and that every site is not expected to accommodate every type of housing. The Council therefore failed to produce evidence to substantiate this part of the reason for refusal. There was therefore a cost to the applicant in preparing a response to this point and related matters on housing mix and viability.
7. The reason for refusal went on to refer to the number of triple tandem parking spaces proposed as a consequence of the number of 4 bedroom homes in the scheme and the impact of this on the effectiveness of the internal highway network.
8. The applicant claims there was no need for a Highways roundtable after the Council clarified that it was not raising issue on highway safety grounds despite making reference to pedestrian safety in their Planning witness proof. However, I am of the view that a Highways roundtable would still have been necessary to address the design related points of the proposed parking scheme.
9. The applicant says the Council should not have made reference to national space standards. This was done to support the Council's case in the reason for refusal that the floorspace was too small. The Council accepted that the standards were unadopted but nevertheless provided guidance. It was not unacceptable for them to do this in that context.
10. During the course of the Inquiry the applicant claims that the Council introduced a number of points that were not referred to in the reason for refusal. It is acceptable for the Council to expand upon the points raised in the reason for refusal to expand and qualify the reason. Whilst I do not agree that all of the points listed by the applicant cannot be linked to the reason for refusal, there are a number that do not. They include:
 - a) The failure to take cues from garden city/ corporation suburb ideals
 - b) Walking routes across the site
 - c) Elements of the Building for a Healthy Life assessment
 - d) The introduction of 2 alternative concept plans

There was a subsequent cost to the applicant in responding to these points as a consequence of the Council's unreasonable behaviour.

Conclusion

11. For the reasons given above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in part. Therefore, the application for an award of costs is partially allowed.

Costs Order

12. In the exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Newark and Sherwood District Council shall pay to Miss Elizabeth Woodhouse of Keepmoat Homes the costs of the appeal proceedings limited to those costs incurred in respect of (i) preparing for and responding to matters related to housing need (ii) preparing for and responding to matters related to 4 points listed in paragraph 10 of the Decision above. The applicant is now invited to submit to Newark and Sherwood District Council, to whom a copy of this Decision has been sent, details of the costs with a view to reaching agreement as to the amount.

K Ford

INSPECTOR