

Costs Decision

Site visit made on 6 September 2021

by **S Dean MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 October 2021

Costs application in relation to Appeal Ref: APP/A3010/W/21/3274211 Land adjacent to Ashlea, Plantation Road, East Markham NG22 0SD

- 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 Mrs Joan Davies for a full award of costs against Bassetlaw District Council.
 - The appeal was against the refusal of the Council to grant planning permission for two detached dwellings.
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Decision

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

Preliminary Matter

2. The Council did not respond to this application for costs.

Reasons

3. The Planning Practice Guidance (the PPG) sets out that parties in planning appeals are expected to behave reasonably. It goes on to say that where a party has behaved unreasonably, and that unreasonable behaviour has caused unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. The PPG sets out examples of behaviour which may give rise to an award of costs against the Council.
4. Against those examples, the applicant claims that the Council acted unreasonably by making vague, generalised, or inaccurate assertions about a proposal's heritage impact, unsupported by any objective analysis, with particular regard to the heritage impact of the proposal. Whilst the applicant did submit a Heritage Impact Assessment with the proposal, this did not deal with archaeological effects of the proposal. Although the Decision Notice was not particularly clearly framed in these terms, archaeological effects were nonetheless referred to and it was clear from the Officer Report that this was the heritage matter at issue for the Council. Following the submission of the "Desk Based Heritage Impact Assessment Study", which did deal with archaeological effects, the Council accepted that this reason for refusal had been addressed. I do not consider that this behaviour was unreasonable, as the reason for refusal was based on a lack of information, which once provided, was accepted.
5. Turning to the issue of housing mix, the applicant states that the reason for refusal does not clearly state what the harm or impact of this development will be. The reason for refusal sets out the requirement of the relevant development plan policy, and that in the opinion of the Council, and in light of

the evidence before them at the time of making their decision, the proposal was contrary to that policy. As applications must be determined in accordance with the development plan unless material considerations indicate otherwise, I do not consider that this was a vague, generalised or inaccurate assertion which represented unreasonable behaviour.

6. In light of my comments above on heritage and archaeology, I do not consider that the Council was unreasonable by persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
7. The final claim relates to the Council not determining similar cases in a consistent manner. Whilst I note the list of other applications determined by the Council, I do not have sufficient information before me on the specifics of those cases, their sites, and the proposals on them to determine if the Council has been consistent in its application of policy. I recognise that consistency in the planning process is important and like cases should be decided in a like manner. However, it is also important that each case is determined on its own merits and on the basis of the evidence before the decision maker at that time, particularly in relation to matters of character and appearance. I find that the Council has done so in relation to this case, and their behaviour was not therefore unreasonable.
8. I note the complaint of the applicant around lack of meaningful engagement with the Council prior to their decision on the application. Whilst I sympathise with this complaint, particularly in light of the failure of the Council to respond to this application for costs, it was clear from the Decision Notice and Officer Report behind it that evidence was an issue for many of the reasons for refusal.
9. As shown in my main decision, where that evidence was provided it has been assessed, and where adequate, the Council accepted it. Where sufficient evidence has not been provided, the Council did not change its position, and assessed the proposal against the development plan and all material considerations. I consider that the Council explained its position clearly, particularly with regard to the weight to be given to relevant policies and plans, and do not find that their behaviour was therefore unreasonable.

Conclusion

10. I therefore find that the Council has not demonstrated behaviour in the appeal or the application which led to it, which could be considered unreasonable in the terms of the PPG, and which then resulted in unnecessary or wasted expense.
11. The application for a full award of costs is therefore refused.

S Dean

INSPECTOR