
Costs Decision

Site visit made on 11 October 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2021

Costs application in relation to Appeal Ref: APP/T2405/W/21/3278060 43 New Street, Blaby LE8 4GT

- 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 James Perry on behalf of Cropston Properties Limited for a full award of costs against Blaby District Council.
 - The appeal was against the refusal of planning permission for demolition of existing dwelling and erection of 7 dwellings with associated access, garaging, parking and landscaping, and alterations to 45 New Street to form a fully hipped roof following demolition of adjacent dwelling.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant has alleged that the Council behaved unreasonably by imposing its second reason for refusing planning permission, which relates to waste collections, and by failing to consider alternative collection arrangements potentially capable of being secured via condition.
4. As will be seen from my decision upon the planning appeal to which this costs application relates, I have found that the Council was justified in imposing its second refusal reason. Indeed, I have identified that a satisfactory solution for the collection of household waste from the site has not been found. The unadoptable nature of the proposed access road was a relevant factor in me coming to this finding. Further, consistent with reasoning contained within the planning decision, it has not been satisfactorily demonstrated that the Council considered similar cases in an inconsistent manner.
5. It will be seen from my decision upon the planning appeal that I have found that private waste collections from the development would not be suitably securable by way of a planning condition. Moreover, reflective of the importance of the role needed to be performed, a planning condition could not provide the necessary degree of certainty that private collections from the site would continue in perpetuity should the scheme be implemented.

6. It has also been alleged that the Council's first reason for refusal, which relates to noise and disturbance effects, was imposed whilst illogically inferring acceptability if vehicle movements were to instead take place along an adopted road. However, I do not accept that the Council's requirements in a waste collection context illogically infer that its concerns in a noise and disturbance sense would no longer apply should an adopted road be provided. Indeed, the Council's Decision Notice outlines two standalone refusal reasons that are not interdependent.
7. For the avoidance of doubt, notwithstanding the findings of a submitted Noise Impact Assessment¹, it was not unreasonable for the Council to put forward noise and disturbance concerns related to the intended provision of a shared vehicular access set immediately adjacent to existing residential premises.
8. I note that a lack of willingness from the Council to seek to overcome its concerns has been alleged by the applicant. However, it is evident that the Council entered into meaningful dialogue with the applicant during the processing of the planning application and I find that, in broad terms, it did not take an unduly negative or unhelpful stance when doing so.
9. For the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Thus, having had regard to all matters raised, an award of costs is not justified.

Andrew Smith

INSPECTOR

¹ Existing Noise Climate and Noise Impact Assessment, Revision 1, 24 June 2021