
Costs Decision

Inquiry held between 12-15 October 2021

Site visit made on 18 October 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2021

Costs application in relation to Appeal Ref: APP/H1705/W/21/3276870 Land adjacent to Two Gate Lane, Overton, Basingstoke RG25 3TG

- 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 Bewley Homes PLC and Romanina Real Estate Inc for a full award of costs against Basingstoke & Deane Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 82 dwellings, with vehicular access from the B3400, and the provision of public open space, landscaping and other associated works.
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Decision

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

Reasons

2. Planning Practice Guidance advises that parties in planning appeals normally meet their own expenses. Costs may only be awarded against a party who has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Council's refusal on highway safety grounds was made contrary to the advice of the Highway Authority. The Highway Authority had initially opposed the scheme because of concerns about the proximity of the two junctions. It had only withdrawn that objection following the submission of further information, and then had done so only 'on balance' and while explicitly rejecting part of the argument put forward by the appellant which sought to show that junction visibility and collisions rates were not correlated.
4. As the evidence demonstrated, the proximity of the two junctions would give rise to instances where visibility would be interrupted. The weight to be accorded to the interruptions in visibility and the impact they have on highway safety is a matter of judgement. It is apparent from the Highway Authority's initial response and its less than emphatic final advice that these are not trivial instances and should be taken seriously. While I have concluded that the interruptions in visibility would not compromise highway safety to an unacceptable extent, it was not unreasonable for the Council to have reached a different view.

5. The refusal on the grounds that the development would appear cramped is also one of judgement. The proposal for 82 dwellings is an uplift from the approximately 70 dwellings allocated for the site in the Neighbourhood Development Plan. While I have concluded that the development would not appear cramped, the increase in dwelling numbers and the differences between the proposed scheme and the indicative layout contained in the Neighbourhood Development Plan are material factors that caused the Council concern over the amount of development and how it might look, notwithstanding the advice it received from its own officers.
6. The evidence presented at the Inquiry on behalf of the Council was directed more at the layout and design of the scheme rather than its density or sense of being cramped. Nevertheless, in broad terms the criticisms were aimed at the impact the development would have both internally and on the wider environment and related those criticisms to national and local design guidance. Good design is a matter that the Government has placed greater weight upon through national design guidance and recent changes to the Framework and is therefore a legitimate concern for planning authorities. I consider that sufficient evidence was put forward to demonstrate that there was at least an arguable case for the Council to make on this issue.
7. The other remaining grounds for refusal were all legitimate reasons for refusal at the point of the Council's decision but were able to be satisfactorily addressed through further amendment, negotiation with statutory bodies, and submission of a legal undertaking. The Council worked with the appellants to overcome the issues where resolution was possible. I consider that approach to be reasonable. It did not result in unnecessary or wasted expense as these matters would have had to be resolved in a similar manner in any case.

Conclusion

8. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Guy Davies

INSPECTOR