



Costs Decision

Site Visit made on 30 November 2021

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2022

Costs application in relation to Appeal Ref: APP/G2815/W/21/3277115 Jack and Jill Day Nursery, Moor Road, Rushden NN10 9TP

- 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 Jack and Jill Nursery for a full award of costs against East Northamptonshire Council.
 - The appeal was against the refusal of planning permission for Residential Development for 3 Dwellings including access and amenity.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 or wasted expense in the appeal process.
3. The Applicants contend that the appeal is only necessary because the authority failed to consider the application in an appropriate manner. They consider that access to the land was the only detailed matter that had been submitted for consideration, and that was a matter that was supported by the Local Highway Authority.
4. The reason for refusal relates to the impact of the proposed development would have on the established character of the area, access and parking and the living conditions for future residents. The principle of development is firstly at issue, and insofar as these matters are concerned the proposed scheme needs to demonstrate that they could satisfactorily be achieved on the site by the development, as now before me. In this respect, I find that the Council has been consistent in expressing their concerns regarding the layout of the site, including the provision of access, parking and garden space.
5. I acknowledge that reserved matters provide an opportunity to consider detailed issues such as appearance, landscaping, layout and scale. However, in this instance I find that the introduction of new housing in the form and quantum proposed, raises issues relating to detailed matters, as well as the principle of the development. These are issues that should be addressed at the outline planning application stage. Given the evidence before it, including the indicative scheme submitted, I am satisfied that the Council has provided

evidence to support their concern, referring to the relevant policies of the development plan, and the neighbourhood plan.

6. Given my findings above I consider that the applicant's time and expense in defending the appeal were a necessary part of the process. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated.

Decision

7. I have considered all the submitted evidence and conclude that the application for an award of costs should be refused.

J Gunn

INSPECTOR