
Costs Decision

Hearing Held on 25 January 2022

Site visit made on 26 January 2022

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2022

Costs application in relation to Appeal Ref: APP/H1840/W/21/3277713 Land at Froxmere Road, Crowle, Worcestershire WR7 4AL

- 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 Liam Good (Platform Housing) for a full award of costs against Wychavon District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the erection of 12no affordable dwellings with associated site access and infrastructure.
-

Decision

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

The submissions for Mr Liam Good (Platform Housing)

2. In summary, the applicant is seeking an award of costs on the grounds that the Council had no justifiable reason to refuse the application for 12 affordable homes. Evidence of need was supplied, and affordable housing need was supported by the Council's Housing Officer. Therefore, the applicant considers the merits of the case were clear and unequivocal, and that members of the Planning Committee should not have refused permission against the officer recommendation to approve, as they had no justifiable reason to do so.
3. At the Hearing the applicant further stated that the refusal was based on the strength of feeling of residents and the committee sought to refuse permission at all costs.

The response by Wychavon District Council

4. Whilst the application was recommended for approval by officers, given the uncertainties around the available need figures in the housing registers and the stringent test set out in Policy SWDP16 there was clear scope for the planning committee to take a different view to its officers.
5. In doing so, the Planning Committee took note of, and gave due weight to, the large amount of concern expressed by local residents regarding the question of whether there was sufficient local affordable housing need for the scheme.
6. Further, despite numerous other concerns being expressed by residents on other matters the Committee took a measured view of these deciding on balance that none were justifiable additional grounds upon which to refuse the application. This is a good indication that the Committee were not determined

to refuse the application “at all costs” but approached the matter in a fair-minded and reasonable way.

Reasons

7. The Planning Practice Guidance (PPG) advises that costs may 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. In order to be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Parties in the appeal process are normally expected to meet their own expenses.
8. The PPG advises that the local planning authority is at risk of costs on substantive grounds if it prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
9. In considering whether there was a proven and yet unmet local need for affordable housing, a planning judgement was required. This led Council Officers to recommend the scheme for approval subject to planning conditions to the Planning Committee. However, the Planning Committee was not obliged to accept or agree with the recommendation put to them. In this case, the Council exercised its planning judgement, interpreting the evidence of housing need provided, and having regard to local knowledge and representations from residents, concluded that the proposed development would conflict with development plan Policies SWDP16 and SWDP2.
10. The fact that the Planning Committee did not agree with their Officer’s recommendation is not alone justification for an award of costs. However, the reasons for doing so, do need to stand up to scrutiny and be supported by robust objective evidence.
11. The evidence of local need for affordable housing is not clear cut, with different assumptions and documents to be interpreted. In such circumstances, the conclusions on whether there is an affordable housing need are likely to diverge. This does not amount to unreasonable behaviour.
12. For the reasons set out in my Decision, I agree that the development complies with the requirements of Policy SWDP16. However, it is not inherently untenable or unreasonable for the Council to have taken a different view. In my judgement the Council has produced sufficient evidence to substantiate its case. Therefore, I do not find that it has prevented or delayed development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

Conclusion

13. I conclude that unreasonable behaviour has not been demonstrated. Accordingly, it follows that the applicant has not been put to unnecessary or wasted expense in the appeal process.

Diane Cragg

INSPECTOR