



Costs Decision

Site visit made on 15 November 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Costs application in relation to Appeal Ref: APP/Y3940/W/22/3299162 Land at Rosehill Close, Bradenstoke SN15 4LB

- 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 Rosehill Homes Ltd for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for construction of four dwellings and associated works.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the 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. Council Officers recommended that planning permission be granted for the proposal, but the Council members took a different course of action. While the Council is not duty bound to follow the advice of its professional officers if a different decision is reached the Council must clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
4. The Planning Committee minutes indicate that members had objectively highlighted that the development was outside of the settlement and within the open countryside. This they considered would have consequential effects on elongating the settlement, while the limited public transport facilities nearby would increase the need to travel by car. They also referred to the scheme's development on open, undeveloped land, while it would not meet the development plan's definition of 'infill'. Those impacts would, in their view, be at odds with the development plan's housing policies as outlined in the refusal reason.
5. Committee members were given clarification that the application site was not allocated within the development plan or its supporting documents, including the village Neighbourhood Plan (NP). The refusal reason also refers to it being unallocated housing land. The NP does provide some scope for the development of small-scale schemes such as the appeal proposal. However, that would depend on it meeting the aims of other policies such as those in the Core Strategy regarding the principle of development and location. In this

regard the scheme was outside of the settlement and therefore contrary to development plan policy.

6. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The appellant had to address those concerns and the evidence of third parties in any event. Furthermore, having assessed the evidence submitted by the appellant in addressing the Council's reasonable concerns, I do not consider that unnecessary expense was incurred on the Appellant.
7. The proposal was 'called-in' to be determined by the Planning Committee. The reasons for the call-in given by the ward member, were not, according to the applicant, consistent with those outlined in the subsequent refusal notice. However, the reasons for refusing a scheme do not, in my view, need to repeat those referred to in the call-in. There could, as it would seem in this case, be other matters that persuade elected members to come to a view based on material and information presented by officers at the committee. Relying solely on call-in reasons to refuse a development would question the need for it to be determined at a planning committee in the first instance, while also denying other members from having their viewpoints discussed. Accordingly, the Council did not act unreasonably in this respect.
8. The Council took some 13 months to determine the application and during this time it is understood that the applicant worked with officers to address comments received from consultees. No doubt the applicant was frustrated by the outcome of the final decision. However, the Council's members were entitled to come to a different view to its officers, while developers will run the risk of such an outcome occurring following a lengthy determination period. Moreover, the increase in the development costs during that time would be a separate matter that cannot be directly attributed to the determination period. Consequently, the Council did not act unreasonably in this respect.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

RE Jones

INSPECTOR