



Costs Decision

Site visit made on 11 January 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

**Costs application in relation to Appeal Ref: APP/K3415/W/22/3305895
Land north east of Deanslade Farm, Claypit Lane, Lichfield WS14 0AG
Easting (x) 411083 Northing (y) 307829**

- 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 G Jones - SM Homes for a full award of costs against Lichfield District Council.
- The appeal was against a refusal to grant planning permission for erection of 6 dwellings and associated works.

Decision

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

Reasons

2. 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.
3. The PPG provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; where vague, generalised or inaccurate assertions have been made about a proposal's impact, which are unsupported by any objective analysis; and where similar cases have not been determined in a similar manner. Unreasonable behaviour at an appeal can also result in an award of costs, for example where proceedings have been prolonged through the introduction of a new reason for refusal.
4. In granting planning permission on land to the south west of the appeal site for 7 five-bedroomed detached dwellings¹ (the neighbouring permission), the Council reached contrasting conclusions to those it reached in respect of the appeal proposal in relation to housing mix and heritage matters. I accept that the number and type of dwellings proposed in each case, their location within the Deans Slade Strategic Development Allocation and their relative proximity to the nearest heritage assets are all similar.
5. However, by virtue of the neighbouring permission, the material considerations in respect of the appeal site are not identical. More particularly, the proposal would result in a further concentration of five-bedroomed dwellings over and

¹ LPA Ref 18/01498/FUL

above the neighbouring permission at the settlement edge. I have concluded differently to the Council in terms of the consequences of these factors relative to the overall objectives of local and national policy in terms of housing mix and heritage matters. Even so, I find that the Council was entitled to reach different conclusions to those that it reached on the neighbouring site based on an assessment of the current circumstances.

6. The planning application which led to the appeal was not refused on the grounds that an education contribution would not be made. It is clear from the 'Supplementary Report' to the Council's Planning Committee that the appellant had raised concerns in respect of the changed position of the local education authority (LEA) in terms of an increase in the contributions requested. However, it is understandable that the Council did not pursue any further discussions between the appellant and the LEA in light of the Planning Committee resolving to refuse the planning application for other reasons.
7. In their appeal statement of case, the appellant set out their stance on education as an 'other matter'. In response, the Council conceded that a secondary school contribution was not necessary. However, the appellant had indicated during the application process that they were willing to make a contribution towards primary school provision, albeit a lesser figure than that latterly requested by the LEA. As this matter was unresolved it was necessary to consider it through the appeal process. I have found that a developer contribution would not be justified. Even so, the Council did not explicitly seek to introduce this matter as a new reason for refusal.
8. For the reasons set out, I therefore find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

M Russell

INSPECTOR