



Costs Decision

Site visit made on 20 March 2023

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2023

Costs application in relation to APP/ W1850/W/22/3304126

Land South East of Greyhound Close, Longtown

- 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 Ms Claire Price for a full award of costs against Herefordshire Council.
 - The appeal was against the refusal of planning permission for the proposed residential development of 6 no. dwellings with associated access, parking and landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. The applicant has made the application for a full award of costs on substantive grounds and submits that the Council has acted unreasonably in that it has prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failed to produce evidence to substantiate each reason for refusal on appeal; and the vague, generalised and inaccurate assertions within the reason for refusal.
3. The application essentially relies on the fact the Council Officers recommended that planning permission be granted for the proposal, but that the Council Members took a different course of action without adequate reason to do so. The PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
4. In this case I have noted the recommendation of the Council's Officers, including that their advice during the planning application process was positive. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view. It can be seen from my decision that I agree with Council Members and that there is conflict with development plan policies relating to the mix of housing proposed. It

follows that I am satisfied that the Council has shown that it was able to substantiate its reason for refusal. Furthermore, I consider that the refusal reason, which refers to the size, type, and range of housing and specifically conflict with Policy RA2 of the Herefordshire Local Plan Core Strategy 2011-2031 (HLPCS) in that regard, to be clear and unambiguous.

5. The Council indicate in their submissions that the reference to part d) of Policy LGPC2 of the Longtown Group Parish Neighbourhood Plan in the refusal reason was made in error and that the alleged conflict is in fact with part e) of the policy. This reflects the consideration of the issue in the Officer's report. Given that clarification on this matter could have been sought by the applicant in a straight forward and timely manner, I find that this would not amount to unreasonable behaviour that has caused unnecessary or wasted expense in the appeal process. Whilst I have found no conflict with this policy, this does not alter my findings in relation to HLPCS Policy RA2.
6. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for costs is refused.

Emma Worley

INSPECTOR