



Costs Decision

Site visit made on 23 May 2023

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2023

Costs application in relation to Appeal Ref: APP/F1040/W/23/3316427 Knights Lodges, Knights Lane, Bretby, Burton-On-Trent, DE15 0RT

- 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 Dean Willshee for a full award of costs against South Derbyshire District Council.
 - The appeal was against the refusal of planning permission for the erection of 8 holiday lodges.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. It sets out 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 preventing development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - Failure to produce evidence to substantiate each reason for refusal on appeal;
 - Making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
 - Refusing planning permission on a planning ground capable of being dealt with by conditions; and
 - Not determining similar cases in a consistent manner.
4. I accept that the applicant provided extensive technical evidence in support of his proposal, and the Council officers found no conflict with the development plan. Furthermore, I note that the Council's Landscape Officer raised no objection to the scheme. That said, the Planning Committee, following a site visit, were fully entitled to exercise their own planning judgement regarding the acceptability of the proposed development. Consequently, I find that the Council did not act unreasonably in coming to its decision.

5. Although I found differently to the Council in terms of the effect of the scheme on the character and appearance of the area, I am satisfied that it substantiated its reason for refusing the application making reference to development plan policy.
6. Whilst recognising that calling in planning applications for Planning Committee consideration can cause delay in the decision making process, I have no substantive evidence to indicate that this significantly delayed the determination of the application. Furthermore, I have no evidence to indicate that the members of the Committee did not determine the application with an open mind. I am also satisfied that a conditional approval would not have provided a mechanism that would have addressed the issues that concerned the Council.
7. Although the appeal scheme related to a form of development similar to those previously approved, there were marked differences between the schemes in terms of the scale of the proposed buildings. The differences between the schemes were clearly identified in the Officer's report and alluded to in the Council's Statement of Case. Consequently, I find that the Council were entitled to reach a different decision on the appeal application to those that had been reached previously.
8. Given my findings above I consider that the appellant's time and expense in defending the appeal was 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.

J Gunn

INSPECTOR