



Costs Decision

Site visit made on 12 April 2023

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 25 July 2023

Costs application in relation to Appeal Ref: APP/R1038/W/22/3306802 Land to the Rear of 263 Nethermoor Road, Wingerworth, S42 6DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Land Allocation Ltd against the decision of North East Derbyshire District Council.
 - The application Ref 21/01085/OL, dated 1 September 2021, was refused by notice dated 6 June 2022.
 - The development proposed is up to 26 over 55's accommodation, with all other matters reserved except for access.
-

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. There are two claims to assess. Firstly, whether the Council prevented development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Secondly, whether the Council failed to produce adequate evidence to substantiate its reason for refusal by making vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis.
4. In relation to the first claim, in its reason for refusal the Council explained that the residential development of the site would erode the gap between two settlements and cause landscape and visual harm. In so doing it cited those policies of the development plan the proposal would be contrary to. Assessing the effect of a proposal on the character and appearance of an area and deciding what weight to attach to the benefits of a scheme is a question of planning judgement. Although for the reasons given in the decision I did not agree with the Council, through its reason for refusal, officer report and appeal statement the Council presented respectable evidence to substantiate its decision to refuse permission. As a result, it did not act unreasonably.
5. Turning to the second claim, policy SS1 is relevant to the appeal because criterion f refers to policy LC4 which requires that new specialist housing in the countryside complements the landscape. Similarly, policy SS9 is relevant because one of the types of development that it supports in the countryside, subject to its effect on the landscape, is where it would have a demonstrable

community and / or social benefit. Housing for older people to address an identified need falls into this category. Policy W2 of the Neighbourhood Plan is consistent with policy SS9 of the Local Plan in that it only supports development in the countryside that is appropriate. With regard to policy SDC3, as I have explained in relation to the first claim, whether or not significant harm would occur is a matter of planning judgement. In this case, with the objective analysis of their landscape consultant, the Council provided decent evidence to support its stance regarding the impact of the proposed scheme and explained which development plan policies were engaged.

6. Taking all these matters into account, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

Ian Radcliffe

Inspector