



Costs Decision

Site visit made on 1 November 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2023

Costs application in relation to Appeal Ref: APP/K2420/W/23/3316041 Land off Bagworth Road, Barlestone, Leicestershire CV13 0EG

- 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 Land Allocation Ltd for a full award of costs against Hinckley and Bosworth Borough Council.
 - The appeal was against the refusal of outline planning permission for residential development for up to 50 dwellings, including access, with all other matters reserved.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. The applicant considers that the Council exhibited unreasonable behaviour by:
 - refusing the application for vague, generalised or inaccurate assertions about the development's impact and failure to produce evidence to substantiate each reason for refusal given the no objection response from the Highways Authority; and
 - preventing and delaying development which should clearly be permitted, given the housing land supply position and benefits of the scheme.
4. As set out in my Appeal Decision, I have found that the development would not cause harm to highway safety, with regard to the local road network. I acknowledge that the Council are under no obligation to accept recommendations from statutory consultees. However, although the Council consider the increase in vehicle trips which would be generated by the development would be significant, no substantive evidence is before me justifying this position. Nor does the Council dispute the methodology or findings of the Transport Statement. In the absence of demonstrable justification, the refusal of the application on the grounds of highway safety has been made primarily based on interested party concerns with limited substantive evidence to back up this view. No further substantive evidence was submitted by the Council as part of the appeal. I consider this to be unreasonable behaviour.

5. Even though the Council is unable to demonstrate a five-year supply of deliverable housing sites and public benefits would arise from the development, nevertheless, I have found that the development conflicts with the development plan as a whole. This includes conflict with a policy within a recently made Neighbourhood Plan. Combined with the remaining criteria of paragraph 14 of the Framework being met and the housing supply the Council can demonstrate, I have concluded that the adverse impacts of allowing the development significantly and demonstrably outweigh the benefits. Therefore, I find that the Council had reasonable concerns about the conflict with the development plan as a whole and conclude that the Council did not prevent or delay development which should clearly be permitted. The appeal, therefore, could not have been avoided with respect to the location of the site or the development's effect on the character and appearance of the area.
6. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the effect of the development on highway safety, with regard to the local road network, and a partial award of costs is therefore warranted.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Hinckley and Bosworth Borough Council shall pay to Land Allocation Ltd, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in relation to highway safety; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Hinckley and Bosworth Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Juliet Rogers

INSPECTOR