



Costs Decision

Site visit made on 19 December 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2024

**Costs application in relation to Appeal Ref: APP/M1005/W/23/3324628
Land east of Moorwood Moor Lane and north of Inns Lane,
Moorwood Moor, South Wingfield DE55 6DU**

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- 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 William Huckle for a full award of costs against Amber Valley Borough Council.
 - The appeal was against a refusal to grant planning permission for construction of a new means of access from Inns Lane.
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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 (LPAs) 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 where development is prevented or delayed where it should clearly have been 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 and where vague, generalised or inaccurate assertions are made about a proposal's impact which are unsupported by any objective analysis.
4. The appellant contends that the LPA's case does not acknowledge compliance with limb (b) of saved Policy EN1 of Amber Valley Borough Local Plan (2006) (LP). As set out in my own decision, the proposal isn't necessary to make the respective dwelling that it would serve accessible. However, I have found the other factors put forward in terms of necessity persuasive in this particular instance. This also takes into account that saved Policy EN1 is more restrictive than the National Planning Policy Framework (the Framework) in terms of development in the countryside. Nevertheless, these are matters of planning judgement and I do not find that the LPA was unreasonable in reaching its own view.
5. Furthermore, the LPA also identified conflict with saved Policy LS3 of the LP as well as the requirements in the Framework for development to recognise the

intrinsic character and beauty of the countryside. I have found that the proposal would be acceptable in these respects. However, matters of character and appearance are a subjective matter and the LPA was entitled to reach its own findings. Therefore, even if the LPA had not identified conflict with saved Policy EN1, there is nothing to suggest it would also have reached an alternative conclusion in respect of the other matters identified in its decision. Therefore, I am not persuaded that an appeal would have been avoided even if conflict with saved Policy EN1 had not been cited.

6. For the reasons set out, unreasonable behaviour which has caused unnecessary expense has not clearly been demonstrated in this instance. The application for costs is therefore refused.

M Russell

INSPECTOR