



Costs Decision

Site visit made on 12 December 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2024

Costs application in relation to Appeal Ref: APP/A2470/W/23/3325242 Land off Willoughby Drive, Empingham, Oakham, Rutland, LE15 8PY

- 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 Andrew Clover Planning and Design Ltd for an award of costs against Rutland County Council.
 - The appeal was against the refusal of planning permission for an outline erection of four dwellings.
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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. The planning application was refused for four reasons. Of these, one pertained to the potential effect of the development upon the character and appearance of the surrounding area.
4. In respect of this, the Council identified relevant, adopted, development plan policies and assessed the development against the requirements of these policies and outlined the elements of the proposal that conflicted with these policies. In result, the evidence before me clearly explains the reasons why the Council believed that the proposed development was unacceptable in this regard.
5. In assessing matters such as the effect of a development upon the character and appearance of a surrounding area, an element of planning judgement is normally required. Therefore, as the Council clearly and adequately explained the reasons why it was considered that the proposal would have an adverse effect upon the character and appearance of the surrounding area and referred to relevant planning policies, I am unable to find that this approach was unreasonable.
6. The appellant submitted an updated biodiversity assessment. However, the Council sought advice from relevant consultees. It is for any decision maker to determine the amount of weight that should be given to the advice of a consultee.
7. In this case, the Council was able to explain the reasons for which they placed a greater amount of weight on the advice it received in respect of biodiversity.

I cannot, therefore, find this approach to have been unreasonable. In result, the approach taken by the Council has not resulted in wasted or unnecessary expense on the part of the appellant.

8. The remaining reasons for refusal are linked. In respect of whether the appeal site could accommodate a greater number of dwellings, the Council outlined the reasons they believed a greater number of homes could be provided. Therefore, this reason was supported by analysis of the relevant material considerations. Although I have disagreed with the conclusions reached by the Council in this instance, the approach taken was not unreasonable.
9. As the Council reasonably concluded that the site could accommodate a greater number of homes, it was therefore appropriate for the Council to consider policies that sought to deliver affordable housing. The cited policy was relevant to the consideration of the appeal scheme, and, in consequence, I am unable to find its application to be unreasonable. I therefore do not find that this has resulted in unnecessary or wasted expense on the part of the appellant.
10. There is some debate regarding the local housing supply level and the delivery of houses. However, the Council did identify the benefits of the scheme in order to ascertain whether any adverse effects outweighed them. Therefore, there is no evidence of unreasonable behaviour in this regard.

Conclusion

11. I therefore conclude that the Council has not acted unreasonably, which has not resulted in wasted or unnecessary expense as defined by the PPG. For the preceding reasons, an award of costs is not justified.

Benjamin Clarke

INSPECTOR