



Costs Decision

Site visit made on 14 November 2023

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

**Costs application in relation to Appeal Ref: APP/H1840/W/23/3322171
Land rear of Rose Cottage, Netherwood Lane, Crowle Green, Worcester
WR7 4AB**

- 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 Adrian Coleman for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal of permission in principle for the erection of up to 5 self build dwellings.
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Decision

1. The application for a full award of costs is refused. However, a partial 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 PPG includes examples of unreasonable behaviour by planning authorities that may lead to a substantive award of costs. Amongst other things, this can include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; acting contrary to, or not following well-established case law; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and not determining similar cases in a consistent manner.
4. The appellant asserts that the Council incorrectly interpreted relevant local planning policy relating to housing land supply and failed to acknowledge that the development plan is silent on the matter of self-build and custom housebuilding (SBCH) and that established case law in relation to these issues was not followed.
5. The reasons for refusal provided on the Council's decision notice were generally complete, precise, specific and relevant to the application. The Council did not provide an appeal statement but relied upon its delegated decision report (DDR).
6. The DDR clearly sets out the housing land supply position and identifies that the Council cannot currently demonstrate this in line with the requirements of the National Planning Policy Framework (the Framework). It also confirms that

paragraph 11 d) of the Framework is engaged for this reason. Whilst the DDR does not identify that the development plan is silent on SBCH provision, it does state that the need for such development is an important material planning consideration and identifies the Framework approach in this regard.

7. I therefore find that the reasons for refusal along with the DDR clearly set out the development plan policies and the Framework considerations that were taken account of when assessing the application in terms of housing land supply and SBCH.
8. The appellant asserts that the Council's assessment of the effect on the character and appearance was unfounded. However, as set out in my appeal decision I have found that the proposal would be harmful to the character and appearance of the area. The DDR sets out an assessment in this regard, whilst it is brief, it is clear. I find no unreasonable behaviour in this regard.
9. The applicant considers that the Council exhibited unreasonable behaviour in relation to a lack of proactive engagement prior to the decision being issued and that it was inconsistent in its approach in this regard. No compelling evidence has been provided to demonstrate that even if more proactive working had taken place, that the appeal would have been avoided.
10. The appellant asserts that the Council's assessment of the access to services and facilities within Crowle and Crowle Green was unfounded and based on incorrect assertions. They also state that the Highways comments which include an assessment of the accessibility of services and facilities were received after the DDR was completed.
11. The settlement hierarchy set out under Annexe D of the South Worcestershire Development Plan Adopted February 2016 (DP) only refers to Crowle and does not include Crowle Green anywhere in the settlement hierarchy. In the DDR the Council identify that Crowle Green is not included in the settlement hierarchy of the DP but also states that the appeal site is adjacent to the Crowle Green development boundary. Crowle and Crowle Green are considered as one settlement under the 2019 Village Facilities and Rural Transport Study September 2019. The status of Crowle Green in terms of its role in the settlement hierarchy is unclear.
12. The DDR does go onto assess the services and facilities that I found present in Crowle and Crowle Green including the access to the bus service, but found them to be inadequate. Another planning application put to me at land adjacent to Old Chequers Inn Car Park, is also adjacent to the development boundary of Crowle Green but in that delegated decision report the site is considered to be 'within a reasonable distance of a range of day-to-day services' and that there would be no 'over-reliance on a car'. A previous appeal decision also considered that the level of services and facilities located in Crowle and Crowle Green would be appropriate. There does appear to be an inconsistent assessment of the adequacy of the services and facilities on offer in Crowle and Crowle Green to meet day to day needs.
13. Whilst the location in relation to the settlement boundary is different in these cases a comparison is not provided as to why the appeal site is so significantly dissimilar to warrant a different approach. I therefore do find that the Council has been inconsistent in how it assesses whether the services and facilities on offer in Crowle and Crowle Green are sufficient to meet the day to day needs of

future occupiers. I therefore find that the Council has been unreasonable in respect of the second reason for refusal which led to the unnecessary and wasted expense with regard to the commissioning of a Transport Statement.

Costs Order

14. 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 Wychavon District Council shall pay to Mr Adrian Coleman, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in arguing against the Council's second reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
15. The applicant is now invited to submit to Wychavon District 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.

G Dring

INSPECTOR