



Costs Decision

Site visit made on 28 February 2024

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th May 2024

Costs application in relation to Appeal Ref: APP/C3105/W/23/3329834 Land to the east of Woodway Road, Sibford Ferris, OX15 5RF

- 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 Blue Cedar Homes Limited for a full award of costs against Cherwell District Council.
 - The appeal was against the refusal of planning permission for the erection of 5 two storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure.
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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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive.
3. The PPG guidance identifies various possible unreasonable behaviours by a local planning authority which includes a failure to produce evidence to substantiate each reason for refusal on appeal; 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 manner¹. Local authorities are encouraged to properly exercise their development management responsibilities, and to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case².
4. In the absence of a defined settlement boundary, it is a matter of planning judgement as to whether a site falls within the built-up limits of the settlement. The case officer's report clearly sets out that the appeal site, owing to its physical and visual relationship with the existing built form it considered to be outside of the built-up limits of Sibford Ferris and thus contrary to Policy Villages 1 of the Cherwell Local Plan Part 1 2011-2031 (Local Plan). Whilst I have reached a different conclusion, the Council's position in this regard was clearly reasoned.
5. The findings of the 2018 Housing and Economic Land Availability Assessment (HELAA) were acknowledged by the Council in assessing the principle of the

¹ Paragraph: 049 Reference ID: 16-049-20140306

² Paragraph: 028 Reference ID: 16-028-20140306

development. Although the HELAA provided an indication that up to 20 dwellings would be acceptable, it does not follow that permission would be given. Any proposal would be subject to consideration and consultation under a planning application and determined on individual merit, as was the case here.

6. The officer's report sets out that the housing target of 750 homes across the twenty-three Category A villages over the plan period has been exceeded. However, it does not identify harm in this regard, rather it emphasises that scrutiny is required to ensure that the overall locational strategy is not undermined and that housing delivery in the area is healthy.
7. It is clear from the officer's report that consideration was given to the type of housing proposed. Indeed, the comments of the Strategic Housing Officer are clearly set out and at paragraph 8.24, and the officer report confirms that the provision of age restricted housing would constitute a planning benefit. The planning balance undertaken by the officer thereafter weighs up relevant considerations, including the contribution to the supply of specialist housing. However, the benefit was not considered to outweigh the harm identified.
8. The Council's evidence clearly articulates its case in relation to the effect of the proposal on the character and appearance of the area. In considering the site context, regard is had to the Conservation Area, the landscape setting and neighbouring development including recent appeal decisions³. Whilst geographically close, the context of the neighbouring site is not strictly comparable. Therefore, it does not follow that the same design approach would be automatically acceptable at the appeal site. Further, the previous refusal of single storey units at the appeal site does not indicate that the introduction of two storey dwellings would be appropriate. Consideration of this matter inevitably involves a degree of subjectivity, and therefore although I have reached a different finding, I do not consider that the Council's position was unreasonable in this regard.

Conclusion

9. For these reasons, I find that the Council's reasoning was not unsubstantiated, vague, or indeed unsupported by objective analysis. As such, I do not agree that the Council acted unreasonably in this case. Accordingly, I find that unreasonable behaviour resulting in unnecessary or waste expense, as described in the PPG has not been demonstrated by the applicant. The application for costs is therefore refused.

H Wilkinson

INSPECTOR

³ APP/C3105/W/22/3298098 and APP/C3105/19/3229631