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## Costs Decision

Site visit made on 15 May 2024

**by M Ollerenshaw BSc (Hons) MTPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 07 JUNE 2024**

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### **Costs application in relation to Appeal Ref: APP/J3015/W/23/3331554 48 Rivergreen Crescent, Bramcote, Nottinghamshire NG9 3ET**

- 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 Mrs Ruth Farnsworth for a full award of costs against Broxtowe Borough Council.
  - The appeal was against the refusal of outline planning permission for new 3 bed bungalow.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, in either a substantive or procedural way, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant contends that the Planning Committee members went against the advice of its professional officers with no good reason or evidence and have sought to prevent and delay a development proposal which complies with the development plan.
4. However, the Planning Committee members were entitled to disagree with the planning officer's recommendation and reach a different conclusion over whether the scheme accorded with the development plan and material considerations. An element of judgement was required in making an assessment of the impact of the proposal in respect of character and appearance, living conditions and flood risk. There was reasonable scope for alternative viewpoints to be held in relation to these matters.
5. The decision notice identifies the harm that the Council considered the scheme would cause, and identifies the relevant development plan policies with which it was considered the scheme would conflict. Therefore, this in itself did not amount to unreasonable behaviour.
6. In relation to the Flood Risk Assessment (FRA), it was not unreasonable of the Council to request such additional information as it considered necessary to properly assess the proposal. The request for the FRA was not unreasonable given the surface water issues that have arisen in the area and the concerns of interested parties. Whether the matter could have been dealt with by condition

was also a matter of judgement having regard to the evidence before the Council at the time and the specific circumstances of the case, together with the relevant conditions tests. Even if the flood risk matter could have been resolved, the evidence indicates that the application would still have been refused on other grounds. This matter has not led the applicant to incur unnecessary or wasted expenditure in pursuing the appeal.

7. The Council's decision stands scrutiny relative to the statutory approach to decision-taking. The dispute was a matter of planning judgement, rather than the applicant being forced into an appeal by consequence of unreasonable behaviour. It therefore follows that I cannot agree that the Council behaved unreasonably in preventing a development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. As such there can be no question that the applicant was put to unnecessary or wasted expense.

### **Conclusion**

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

*M Ollerenshaw*

INSPECTOR