



Costs Decision

Site visit made on 29 May 2024

by Helen Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th June 2024

Costs application in relation to Appeal Ref: APP/E2340/W/23/3330350 Land at Green Meadow, Trawden, BB8 8PJ

- 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 Foster Building Contractors Ltd for a full award of costs against Pendle Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 5 detached houses and associated works (Revision of 19/0750/FUL).
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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 applicant submits that it was unreasonable to refuse the appeal scheme on the grounds of design and effect on the character and appearance of the Trawden Forest Conservation Area (TFCA) bearing in mind the previous approved schemes and the similarity with existing dwellings and other new residential development in Trawden.
4. It is further submitted that given the previous application was approved without the requirement for affordable housing, it was unreasonable to require such provision in the appeal scheme.
5. The Council responds that the consideration of design is a matter of planning judgment. The design of the appeal scheme is materially different to previously approved schemes and it is the Council's view that the proposal would cause unacceptable harm to the visual amenity of the area and significance of the TFCA. The determination of a planning application by a Committee contrary to Officer recommendation is not unusual and perfectly legitimate for a Committee to take a different view.
6. In terms of affordable housing provision, the Council submit that the appeal scheme is a different proposal to the previously approved scheme, which was permitted without affordable housing having regard to the particular circumstances of that case. It is legitimate for the Council to require that local plan policy is met.

7. Consideration of design is a matter of planning judgment. The appeal submission puts forward a different design to those previously approved. Whilst Officers considered the proposal to be acceptable, the Committee came to a different view. The Committee members are entitled to do this providing their reasoning is explained and justified. This is set out in the Council's statement which substantiates the reason for refusal. I conclude that this matter does not amount to unreasonable behaviour as described in the PPG.
8. With regard to affordable housing provision, I acknowledge that the Council took a different position to that in the previous approved schemes but again the Council has substantiated the reason for refusal. Each proposal must be considered on its individual merits having regard to the circumstances and context of each case and the relevant policies of the development plan. Whilst I have taken a different view to the Council, this is matter of policy interpretation and judgment. The Council have justified their decision and their approach does not amount to unreasonable behaviour.

Conclusion

9. Given the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Helen Hockenhull

INSPECTOR