



Costs Decision

Site visit made on 11 June 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2024

Costs application in relation to Appeal Ref: APP/D3125/W/24/3339317 Land west of Colt House, Aston Road, Bampton

- 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 West Oxfordshire District Council.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of 5 one 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 can relate to procedural matters (the process) or substantive matters (relating to the issues arising from the merits of the appeal).
3. The development permitted under application reference 22/03370/FUL position is not explicitly cited within the reason for refusal of the application. However, the development permitted under that application is mentioned several times within the Council's delegated report. This, and the reference to a loss of specialist housing within the reason for refusal, indicate that the fallback position was taken into account by the Council in its decision-making process.
4. The benefits that would result from the provision of 5 houses on the appeal site would be less than that resulting from 6. Nevertheless, the Council acknowledged that the delivery of 5 houses, which would be occupied by older people would be a benefit, as would associated economic benefits.
5. While I reached a different conclusion from the Council regarding the effect of the proposals on the significance of a designated heritage asset and the character and appearance of the area, the Council justified the harms it found in these respects. Furthermore, it is clear from the delegated report that the Council considered that the less than substantial harm that would be caused to the significance of a heritage asset, would be outweighed by public benefits associated with the delivery of 5 houses for older people and associated economic benefits.

6. The Council's conclusion that the development would conflict with policy EH9 of the Local Plan, (which includes a public benefit test) was not therefore justified. Notwithstanding this, policy EH10 of the Local Plan, which specifically relates to Conservation Areas, does not include a public benefit test. As such, and even though it was unreasonable of the Council to cite conflict with policy EH9 within the decision notice, the applicant has not been put to unnecessary expense in challenging the part of the reason for refusal of the application that relates to harm to heritage assets.
7. The evidence shows that application reference 22/03370/FUL was assessed on the basis that 11 d) was engaged at the time that application was determined, due to a shortfall in housing land supply within the district at that time. However, the application subject of this appeal was subsequently determined on the basis that paragraph 11 d of the Framework was not engaged as the Council then considered that it had a 5.4 year housing land supply. On the basis that conflict with the development plan was identified by the Council in respect of both applications, and notwithstanding the similarities in the 2 schemes, it was not therefore unreasonable of the Council to reach different conclusions regarding their acceptability at application stage.
8. I understand that the outcome of the application will have been a disappointment to the applicant. Notwithstanding this, the Council provided a reasoned justification for refusing the planning application. Moreover, excepting the reference to policy EH9, the reason for the refusal set out in the Council's decision notice is complete, precise, specific, and relevant to the application.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

V Simpson

INSPECTOR