



Costs Decision

Site visit made on 8 April 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2024

Costs application in relation to Appeal Ref: APP/V0510/W/23/3328203 Land to the rear of Garden Close, Sutton, Cambridgeshire CB6 2RF

- 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 Abbey Developments Ltd for a full award of costs against East Cambridgeshire District Council.
 - The appeal was against the refusal of planning permission for the reserved matters for appearance, landscaping, scale and layout for the erection of 47 homes including public open space of previously approved outline planning application 17/01445/OUM for the erection of up to 53 houses to include public open space and details relating to access.
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Decision

1. The application for an award of costs is allowed in part 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. The PPG adds that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to the substance of the matter under appeal, for example, by failing to produce evidence to substantiate the reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
3. The Council's officer report indicates that the proposal would be acceptable in respect of single storey homes, would provide an adequate housing mix and would be acceptable in terms of the living conditions of the occupiers of No 10 Oates Lane. The report also indicates that the proposed layout of the site and all other matters would be acceptable. Whilst planning committees are not bound to follow the advice of their officers, and the committee was faced with a number of issues to balance and attribute appropriate weight to, decisions should be based upon robust evidence.
4. Limited evidence was presented to substantiate the concerns surrounding the provision of single storey homes. The term 'predominantly' was undefined within the policy. No robust evidence to substantiate or articulate why the development did not comprise predominantly single storey homes or the effect on the character and appearance of the area was provided. No compelling evidence to counter the applicant's evidence that 51% amounted to predominantly. In respect of the reason for refusal the Council has not demonstrated with any clear evidence how the proposed development would be

contrary to the stated development plan policy, which amounts to unreasonable behaviour.

5. The second reason for refusal alleges that the development would fail to meet the housing needs of the village. However, as set out in my decision, the application was recommended for approval and given the positive advice of the Council's officers to its members about the scheme, including the support from its own Housing consultee, it did not provide objective analysis to support its position at appeal, I am not satisfied it has been demonstrated that the proposed development conflicts with development plan. The lack of any robust evidence to substantiate the harm alleged in the reason for refusal amounts to unreasonable behaviour, particularly given it subsequently approved a scheme which also did not comply with the housing mix.
6. It is not always necessary to provide an appeal statement if the Council's concerns can be fully understood from the other evidence and reasons for refusal. In my view, the committee minutes are sufficiently detailed in relation to the third reason for refusal. They explain the reasons why Members of the Council did not agree with the officer's assessment and came to a different conclusion. That is a matter of planning judgement. Although I have allowed the appeal this is subject to conditions to amend the proposed development in relation to the effect upon the occupiers of No 10. The committee minutes provide a sufficient level of information for me to conclude that an appeal could not have been avoided in this respect.

Conclusion

7. There is a lack of robust evidence for the first and second reasons for refusal, which run contrary to the Council's main body of evidence in the officer's report. For the reasons set out in my main decision, permission should be granted. However, an appeal could not necessarily have been avoided.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the first and second reasons for refusal and a partial award of costs is therefore warranted.

Costs Order

9. 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 East Cambridgeshire District Council shall pay Abbey Developments Ltd the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to East Cambridgeshire 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

K Williams

INSPECTOR