

Costs Decision

Site visit made on 26 June 2024

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2024

Costs application in relation to Appeal Ref: APP/M2840/W/23/3327763 Field rear of Church Lane, Church Lane, Great Cransley NN14 1PX

- 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 Mr J Claypole for a full award of costs against North Northamptonshire Council.
 - The appeal was against the refusal of planning permission for erection of 10 no. dwellings with 5 affordable dwellings, including alterations to existing site access, landscaping and biodiversity enhancements.
-

Decision

1. The application for an award of costs is partially allowed 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.
3. It 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 preventing development that should clearly be permitted having regard to its accordance with the development plan, or by refusing planning permission on a planning ground capable of being dealt with by conditions.
4. The applicant contends that the Council's reliance on the allocated site on Loddington Road in the village to provide affordable housing is flawed. This is primarily on the basis that a scheme could be developed for that allocated site with no requirement for affordable housing, whereas affordable housing would be required on the appeal site as it is an exception site beyond the village boundary. They refer to the comments from the Council's Strategic Lead for Housing Development and Enabling to support that view.
5. However, for the reasons set out in my decision on the appeal, the allocated site has been allocated for a quantum of development that would provide affordable housing and I consider there to be no substantive reason why the site could not be developed to achieve this. The Council, therefore, did not act unreasonably by refusing planning permission on this ground.
6. The Council identified less than substantial harm to the setting of heritage assets due to the urbanisation of the site. However it is not explicit in the officer's report that this harm was balanced against the public benefits of the

scheme, as set out in paragraph 208 of the National Planning Policy Framework. Nonetheless, the report does conclude that the proposal would be contrary to the development plan which suggests all the benefits and harms previously set out in the report had been considered. It is also the case that, at the time of the Council's decision, the provision of affordable housing had not been secured through a planning obligation so could not be relied upon as a benefit. As such, whilst it is poor practice to not explicitly carry out this balancing exercise, I find the Council did consider the benefits and the less than substantial harm to heritage assets, along with other harms, and came to a reasonable conclusion.

7. The Council's archaeological advisor commented that the Archaeological Evaluation had been carried out and that further mitigation would be required, but that this could be secured by a condition. It was unreasonable therefore for the Council to include the failure of archaeological mitigation as a reason to refuse the application. The applicant's costs in addressing this reason in parts of their evidence were therefore unnecessary, albeit the costs would appear to be limited.
8. The applicant suggests the access road would be built to adoptable standards and hence bins could be stored at individual properties rather than in the bin store area shown on the plans. They suggest this could have been ensured by a condition which would have addressed one of the reasons for refusal. However, as confirmed by the Local Highway Authority's response, the access road was not proposed to be adopted in the application. Furthermore, the Council must consider the plans before them, which showed the bin store at the access to the site adjacent to 2 Church Lane. It was not unreasonable therefore for them to consider the effects of the bin store on the operation of the highway and on the neighbouring occupiers.
9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred, but only in respect of the reason for refusal relating to archaeology, and a partial award of costs is therefore warranted.

Costs Order

10. 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 North Northamptonshire Council shall pay to Mr J Claypole, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the reason for refusal relating to archaeology; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to North Northamptonshire 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.

A Owen

INSPECTOR