



Costs Decision

Site visit made on 4 September 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2024

Costs application in relation to Appeal Ref: APP/ B3030/W/24/3345773 Land off Holly Court, Rolleston, Nottinghamshire NG23 5SN

- 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 Sara Williams of Arc Partnership (on behalf of Nottinghamshire County Council) for a full award of costs against Newark and Sherwood District Council.
 - The appeal was against the refusal of outline planning permission for the erection of two no. detached dwellings and the re-alignment of Rolleston public footpath no. 5.
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Decision

1. The application for an award of costs is 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. The applicant seeks a full award of costs because the Council refused the planning application against officer's advice, for what they consider to be an unsubstantiated reason for refusal. In addition, the applicant requests an award of costs would also be appropriate as the Council failed to properly consider whether the proposed development could have been made acceptable by the imposition of appropriately worded conditions.
4. The Council advised at an early opportunity that they were not defending the reason for refusal on this appeal, and it has requested the appeal be determined by written representations, instead of by Hearing as the applicant had sought. This early action by the Council to reduce the costs in the appeal process is commendable.
5. The Council's decision being contrary to their officer's advice is not itself unreasonable behaviour, providing such action can be properly justified. Other than stating that the Council stands by its reason for refusal, it has not provided any substantive evidence to justify its reason for refusal within its appeal submissions. The Council's reason for refusal related to the site's suitability for the proposed development and it being an over-intensification of the site. As part of its reason related to the site's suitability for the proposal, I am not persuaded that the Council could have imposed conditions to address that issue.
6. In my decision I found that the appeal site was part of the village, and it would be a suitable site for the proposed development. As the application is in outline

form, with only access to be considered, matters such as scale, layout and appearance are reserved for separate consideration in any case. Moreover, the illustrative plans showed how two dwellings could reasonably be accommodated on the appeal site, which would not be an over-intensification of it. Consequently, not only has the Council not provided evidence to support its decision, in my decision I have also found that the Council's reason for refusal was not justified.

7. Although, the Council has acted swiftly to try and reduce the costs associated with the appeal, they have nevertheless put the applicant to additional costs through having to make the appeal, which in this case the applicant could not have avoided.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

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 ORDERED that Newark and Sherwood District Council shall pay to Mrs Sara Williams of Arc Partnership, the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office, if not agreed.
10. The applicant is now invited to submit to Newark and Sherwood District Council to whom a copy of this decision has been sent, details of those costs with a view to reaching an agreement as to the amount.

A Hunter

INSPECTOR