



Costs Decision

Site visit made on 26 September 2024

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2024

Costs application in relation to Appeal Ref: APP/W3005/W/24/3344977 Land off Marion Avenue, Hucknall, Nottinghamshire

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Chevin Homes (Derby) Limited for a full award of costs against Ashfield District Council.
 - The appeal was against the refusal of planning permission for access to serve a residential development of 30 dwellings with associated infrastructure, open space and landscaping.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the other party applying for costs to incur unnecessary or wasted expense in the appeal process. Behaviours and actions prior to the appeal can be taken into consideration of whether or not costs should be awarded.
3. The planning application was reported to the Council's Planning Committee on 17 April 2024 with an officer recommendation of approval, subject to a number of planning conditions.
4. In relation to the matters that are given in the reasons for refusal the officer report notes that the proposed access point is safe and suitable from a highways perspective. Reference is made to the fact that the Highways Authority raised no objection to the scheme, subject to planning conditions on the basis that traffic generation from the site and the impact on the highway network would be acceptable. The officer report identified that refusal of the application on highways grounds would be very difficult to substantiate.
5. In terms of noise and disturbance, the officer report acknowledged that the scheme may result in some noise and disturbance but that the level of disturbance would not be so significant to warrant a refusal on this basis. It notes that the Council's Environmental Health department had no specific comments to make on the application.
6. The officer report also identified that the appeal site is allocated for residential development as part of a wider allocation for residential development in the Greater Nottingham Aligned Core Strategies Part 1 Local Plan. The report

explained that the principle of residential development on the site was established and that most of the allocation had already been brought forward.

7. The Committee went on to refuse the application. At appeal the Council did not provide any additional evidence to substantiate their reasons. They have also chosen not to respond to the applicant's application for costs.
8. It is clear from the information before me that proper analysis of the proposal would have resulted in planning permission being granted. The Council has sought to prevent development that should have been allowed and has not supported its reasons for refusal with evidence. These are all matters identified in the PPG as unreasonable behaviour.
9. The applicant should not have had to endure the expense and time involved in making the appeal. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and a full award of costs is justified.

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 Ashfield District Council shall pay to Chevin Homes (Derby) Limited, 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.
11. The applicant is now invited to submit to Ashfield 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.

K Ford

INSPECTOR