

SPRINGFIELD BUNGALOW, NOTTINGHAM ROAD, SOUTHWELL, NG25 0QW – APPEAL COSTS

1.0 Purpose of Report

1.1 To update Members in respect of the costs applications made in relation to the two planning appeals made following refusal of applications seeking to vary planning conditions at the Planning Committee held on 23 July 2019.

1.2 The applications and their reasons for refusal are:

- 19/00689/FUL - Application for variation of conditions 02, 03, 04 and 05 of planning permission 16/01369/FUL to allow the new access junction to be constructed wholly within highway land or that owned by the applicant

In the opinion of the Local Planning Authority given the location and design of the access constructed at the junction with Halloughton Road, together with the quantum of residential development it would serve, any relaxation in road standards would be both detrimental and unacceptable from a highway safety perspective. The proposed variation of conditions would result in a departure from both Nottinghamshire County Council reported highway standards and from a previously approved scheme in terms of both kerb radii and visibility splays. Such a compromise in standards is considered unacceptable.

There are no other material planning considerations that would be considered to outweigh this identified harm. The proposal therefore amounts to a detrimental impact on the highways safety of the area contrary to Spatial Policy 7 (Sustainable Transport) of the Amended Core Strategy (March 2019), policy DM5 (Design) of the Allocations and Development Management Development Plan Document (July 2013) and policy TA3 (Highways Impact) of the Southwell Neighbourhood Plan (2016) together with the NPPF (2019), a material planning consideration.

- 19/00779/FULM - Application for variation of condition 11 of planning permission 15/01295/FULM to allow the new access junction to be constructed wholly within highway land or that owned by the applicant

In the opinion of the Local; Planning Authority given the location and design of the access constructed at the junction with Halloughton Road, together with the quantum of the approved residential development it would serve, any relaxation in road standards would be both detrimental and unacceptable from a highway safety perspective. The proposed variation of condition 11 of planning permission 15/01295/FULM in relation to the provision of reduced visibility splays at this junction would result in a departure from both Nottinghamshire County Council reported highway standards.

Such a compromise in standards is considered unacceptable. There are no other material planning considerations that would be considered to outweigh this identified harm. The proposal therefore amounts to a detrimental impact on the highways safety of the area contrary to Spatial Policy 7 (Sustainable Transport) of the Amended Core Strategy (March 2019), policy DM5 (Design) of the Allocations and Development Management Development Plan Document (July 2013) and policy TA3 (Highways Impact) of the Southwell Neighbourhood Plan (2016) together with the NPPF (2019), a material planning consideration.

- 1.3 Members will be aware from Planning Committee on 4 December 2019 that both planning appeals were allowed and the costs claim made by the appellant was agreed in full by the Planning Inspectorate.

2.0 Background Information

- 2.1 Generally the parties involved in a planning appeal are expected to cover their own expenses in proceeding with or defending an appeal. However, when a party (which could be the Council, appellant or consultee) has behaved unreasonably, and this has caused another party to incur unnecessary or waste expense in an appeal process, they may be subject to an award of costs (refer Planning Practice Guidance, paragraph 028 Reference ID: 16-028-20140306, Revision date: 06 03 2014). Additionally, a Planning Inspector or the Secretary of State may also, without an application for costs from any party, may make an award of costs, if they consider that party has acted unreasonably.
- 2.2 The appellant submitted their costs application to the Council following the Inspector's judgement outlining the work and personnel involved with preparing the appeal. This was challenged in terms of the amount of the information provided resulting in clarification of these aspects. These were verified and considered to be reasonable in terms of the appeal. The costs paid as a result of these two appeals is £59,751.90.
- 2.3 Whilst the Council holds insurance that covers, inter alia, 'compensatory damages' and 'wrongful acts', the decision by the Committee does not fall within the scope of these or any other part of the insurance held. The costs therefore have to come from the Council's reserves.
- 2.4 This is not an insubstantial amount to be awarded. However, it is important to note that costs can be awarded when a party has acted unreasonably of many hundreds of thousands of pounds. Officers, both planning and the legal team will always offer advice during consideration of an application when:
- it is being recommended for refusal contrary to officer recommendation;
 - additional reasons for refusal are being recommended; or
 - additional conditions are being recommended on a grant of permission.

3.0 RECOMMENDATIONS that:

(a) Members note the contents of this report; and

(b) consider the likelihood of a costs award being made when determining applications.

Reason for Recommendations

To raise awareness of when costs might be awarded and to minimise the risk of costs being awarded.

Background Papers

For further information please contact Lisa Hughes on Ext 5565.

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