

# Planning and Development

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Your Ref: **APP/C3105/W/22/3298098**

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28<sup>th</sup> September 2022

Dear Safia

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| <b>Appeal No.</b> | <b>APP/C3105/W/22/3298098</b>   |
| <b>Proposal</b>   | <b>The erection of 6 one storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure</b> |
| <b>Location</b>   | <b>Land South of Faraday House Woodway Road Sibford Ferris</b>  |

Thank you for providing a copy of the application for an award of costs in respect of the above appeal. The Local Planning Authority (“the Council”) resists this application for the following reasons:

The basic principle is that each party normally bears its own costs. For an application for costs to succeed, the Appellant must show that someone in relation to the appeal proposal has acted unreasonably and the unreasonable behaviour has caused the appellant to incur unnecessary expense.

In this claim the Appellant has stated that the Council has not provided any evidence to justify its refusal reasons. The Appellant states that although pre-application advice was sought and provided by the Council the planning committee paid no regard to the positive advice provided. The Appellant states that the Planning Committee paid no regard to the appeal decision to allow the development of 25 residential units on the adjoining site. In addition to this the appellant states that the Council cannot provide a 5-year housing land supply but that the appeal decision on the adjoining site to allow the development was in a time when the Council could demonstrate a 5-year land supply. Finally, the Appellant states that the Planning Committee undertook no assessment of the benefits against the harm.

In addition, the Appellant considers that the reasons to refuse the application are unreasonable. The Appellant contends that the development proposal is in line with adopted Policy, that the Council cannot demonstrate a 5-year housing land supply and that the provision of retirement property would meet a clear and accepted need as confirmed by the Council’s Housing Officer. The Appellant continues by stating that the 750 dwellings referred to across the Category A villages is not a target contrary to a view it says was held by the Planning Committee. The Appellant notes that the adjoining appeal site is for 2 storey dwellings and there was no impact on the character and appearance of the area.

Furthermore, the Appellant highlights that the site is not in a Conservation Area and that the comments on design are purely subjective and without foundation as examples of single storey dwellings exist elsewhere in the settlement.

## **1. Planning Committee decision**

As the Appellant has highlighted in their cost's application, the planning committee are not obliged to follow the officer's recommendation in the committee report and that they are able to disagree with the recommendation and vote in the opposite way.

In reaching their decision the Planning Committee considers the advice provided in the officer's report and takes into account the verbal report provided by the officer and the comments raised by interested parties such as objectors and the applicant via their agent. The committee discuss the merits of the application in an open discussion. This is the process the Planning Committee followed in the consideration of the appeal planning application.

The officer's report included reference to the pre-application enquiry and that this was not provided prior to the submission of the application. It is acknowledged that as part of the pre-application process officers were positive towards the principle of the development, and that this positive response was echoed through the officer's committee report. However, as stated to the applicant, the pre-application advice is informal and limited consultation is carried out on the proposal unlike the formal planning application which was subject to a wide range of consultations. As such it is not a foregone conclusion that the Planning Committee would follow the officer's advice in the committee report.

With regards to the Appellant's comments over the appeal decision on the adjoining parcel of land for 25 dwellings this information was provided and highlighted as part of the officer's committee report. Reference was also made in a number of places under different sections of the report to this previous appeal decision and as such the Planning Committee was fully aware of the planning history of this adjoining parcel of land. As highlighted in the paragraph above the Planning Committee consider the contents of the officer's report as set out in the agenda. The Council thus submits that the appeal decision on the adjoining land was taken into account prior to the members voting on the application.

Turning to the issue over the Council's housing land supply, the Planning Committee is fully aware of the situation that the Council finds itself in that it is not able to demonstrate a 5-year housing land supply. As with the issue over the appeal decision on the adjoining parcel of land the officer's committee report covered the issue of the housing land supply position. The officer's report also highlighted the implications of the position in which the Council finds itself and the requirement that decisions for new housing had to be considered alongside the requirements of paragraph 11d of the NPPF. The members were fully aware of this issue and the consequences of their decision. However, the members in weighing up the benefits of the new housing alongside the harm caused by the development the members concluded that the harm outweighed the benefits which is their right to do so as part of the planning process.

## **2. Reasons to refuse the application**

The Appellant contends that the two reasons to refuse the application are unreasonable and highlights a number of reasons for this suggestion. The first is that the Appellant considers the proposal in line with adopted Policy and that the Council is not able to demonstrate a 5-year housing land supply. The Council disagrees on the first point in that the development is located outside the village boundary and therefore would result in development in the open countryside. As noted above, the Council acknowledges it cannot presently demonstrate a 5-year housing land supply; however, as the Courts have held, this housing land supply position "does not automatically lead to the grant of planning permission. Instead (it) involves the balancing of competing interests, but with the tilt towards granting permission."

The first refusal reason highlights that the Council cannot demonstrate a 5-year housing land supply but that the level of rural housing has exceeded the figure of 'windfall' housing in the rural areas and therefore it is the view of the Council that rural housing provision is healthy. Members of the Planning Committee, although aware that Sibford Ferris is a Category A village, were also aware that the village on its own offers very limited amenities and services particularly for the suggested occupiers of the proposed development.

Members of the Planning Committee were fully aware of the position regarding the 750 figure outlined in the Policy BSC1 of CLP 2015 and fully aware from the officer's report and previous appeal decisions that this is not a ceiling figure to warrant a refusal and that as with all new development in considering the level of development the key issue is the impact of the development on the area and other material considerations around the development. In reaching its decision to refuse the application the Planning Committee was fully aware of the situation and had taken this into account.

With regard to the second refusal reason the Council accepts that design can be subjective in that what one person finds acceptable another person may disagree. This is a reasonable assessment of any planning application and as such the Planning Committee is at liberty to refuse an application on the grounds of design and impact on the character of an area contrary to an officer recommendation.

In reaching this decision the Planning Committee had viewed the officer's presentation, which included details of the proposed layout, elevation details of the bungalows and viewed photos of the site taken by the case officer. The Planning Committee was therefore fully aware of the proposed design, the context of the site and the surrounding area. This included the point that the proposed development would not have been in line with the development on the adjoining site but projected beyond the line of the rear gardens of the adjoining development and as such the proposal would have projected further out into the area of own countryside. The proposed development although only single storey would therefore give the impression of extending the boundary of the built form of the village than that of the adjoining development, particularly when viewed from the west and north-west, where in those views the appeal proposal would be in the foreground of the allowed development to the south and more visually strident despite the single storey scale of development. The Planning Committee's decision to refuse the application on design and impact on the rural area was made with full awareness of the proposed scheme and the impact the development would have on the area.

In reaching its decision to refuse the application, although contrary to the officer's recommendation, the Planning Committee expressed a concern over the development in terms of the provision of additional housing in the open countryside and the adverse impact the development would have on the area. The reasons to refuse the application are clearly outlined in the decision notice with the Policy reasons to refuse the application.

## **CONCLUSION**

The Planning Committee is entitled to reach a different conclusion to that recommended by Officers. Although this is acknowledged by the Appellant, it does appear to represent the basis for its application for costs. Any such application can only succeed if another appeal party is shown to have acted unreasonably and the unreasonable behaviour has caused the Appellant to incur unnecessary expense. The Planning Committee considered the application carefully, weighed all the evidence, and explained how it had arrived at a different conclusion to the officer recommendation. The Council does not accept that it has acted unreasonably in its approach to dealing with the application or in providing evidence to justify the reason for refusal. The Council submits that it has not behaved unreasonably. The Council therefore requests that the application for costs should be refused.

Yours sincerely

Wayne Campbell