
Costs Decision

Site visit made on 25 July 2016

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18th August 2016

Costs application in relation to Appeal Ref: APP/D0515/W/16/3150468 Land to the rear of 85 Wimblington Road, March, Cambs PE15 9QW

- 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 and Mrs B James for a full award of costs against Fenland District Council.
 - The appeal was against the refusal of outline planning permission for residential development.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guide (PPG) advises that parties will normally be expected to meet their own costs in relation to appeals, and that costs may only be awarded against a party who has acted unreasonably, and thereby caused the party applying for costs to incur unnecessary, or wasted, expense in the appeal process.
 3. The application for an award of costs is made on the basis that the appellant considers that Council's reasons for refusal have not been substantiated. The PPG indicates that, in such circumstances, costs may be awarded against an authority.
 4. The Council has not responded to the costs claim, but I have considered the Council's Officer's report, and its appeal statement, in dealing with the costs claim. Whilst the Council's appeal statement is quite short, it clearly highlights in paragraph 2.1 that this is because it considers that the Committee report already addresses most of the points raised by the appellant in their appeal statement.
 5. The first two reasons for refusal relate to the impact of the proposal on the character and appearance of the area, and the living conditions of nearby residents. I consider that the Council's Committee report sets out substantiated reasons why it considers the proposal would be detrimental in both these regards. For example, in relation to character and appearance it sets out the key characteristics of the area, and how the development would be contrary to this. It also acknowledges the designation within the Local Plan for the land at the rear, and how this affects the scheme.
 6. In terms of living conditions, the report, for example, gives clear reasoning for why it considers overlooking of neighbouring properties may occur as a result
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of the proposal. Whilst the appellant has suggested that the internal layout could address this, no illustrative plan was produced to show how. Without this, given the suggested layout of the site, I do not consider it is unreasonable of the Council to consider that the proposal could impact on the living conditions of nearby residents, even though no letters of objection were received.

7. Whilst various other decisions and developments have been referred to, as matters of character and appearance and living conditions, are often specific to a location, it does not necessarily follow that the Council has behaved inconsistently or unreasonably in this instance.
8. The third reason for refusal relates to whether adequate provision of waste facilities would be provided on the site. Whilst I have found the scheme to be acceptable in this regard, this is only because the evidence before me included an illustrative layout plan that showed that a bin storage area could be provided adjacent to the turning head. The Council have indicated that this plan was not available at the time the decision was made on the application. Without this information, given the distance of the proposed houses from the road as shown on the illustrative layout, I consider the Council had legitimate concerns as to whether this matter could be adequately addressed. As such I do not consider the Council acted unreasonably in this regard.
9. Furthermore, all the reasons for refusal clearly set out the planning grounds on which the Council considered the application was unacceptable, and indicate the policies within the development plan to which the Council considered the scheme would be contrary. In addition, the report clearly documents that the Town Council supported the scheme.
10. Therefore I am satisfied that the Council has met its obligation to give proper consideration to the planning application. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified.

Alison Partington

INSPECTOR