

Costs Decision

Site visit made on 7 September 2016

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 22 September 2016

Costs application in relation to Appeal Ref: APP/F2605/W/16/3152595 24 Trinity Close, Dereham, Norfolk NR19 2EP

- 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 Horton Farms Ltd for a full award of costs against Breckland Council.
 - The appeal was against the refusal of an application for planning permission for a new attached single storey dwelling.
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Preliminary Matter

1. I note that the Council's response to the costs claim by the applicant states that the proposed development is for two dwellings. However, it is clear from the application and appeal forms, the Council's decision notice and other evidence provided by parties that the proposed development relates to a single attached dwelling as per the description above.

Decision

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

Reasons

3. National Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 4. It also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded.
 5. The applicant states that the Council have not acted positively or proactively and, in not doing so, have prevented or delayed development which should clearly be permitted. The applicant also asserts that through vague, generalised and inaccurate assertions about the application they have formed a view which is unsupported by objective analysis of the facts presented to them.
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6. Whilst I acknowledge the frustration in being informed that a given development is likely to be refused planning permission late on in the life of the application, it is the Council's statutory duty to determine the application within eight weeks from its validation, which they did. Furthermore, the Council make it clear in their delegated officer report the reasons for the refusal of planning permission, taking into account those matters that weigh in favour.
7. I also note that the Council have not made reference to their housing supply nor any of the other sustainability benefits of the scheme that the applicant has set out in their grounds of appeal. Nevertheless, the Council have been clear and explicit on the matter of where the harm would arise from the proposed development and specifically how that harm results in a conflict with the Development Plan. They state that that this harm is by virtue of the siting of the proposed development and that this is fundamental to it. I cannot agree therefore that any dialogue between the parties leading up to the point of refusal would have overcome this objection.
8. To appeal the decision ultimately made was the decision of the applicant and as far as I can see, the Council's precise identification of harm has made that process straight forward.
9. Notwithstanding my own findings in respect of the proposed development which are the subject of a separate Decision, I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated and as such an award for costs is not justified.

John Morrison

INSPECTOR