
Costs Decision

Site visit made on 18 October 2016

by R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC

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

Decision date: 7th November 2016

Costs application in relation to Appeal Ref: APP/V1505/W/16/3155353 Stevenson Farm, Southend Arterial Road, Basildon SS14 3JH

- 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 P Stevenson for a full award of costs against Basildon District Council.
 - The appeal was against the refusal of the Council to grant planning permission for development described as 'application for new highway access to serve car boot sale'.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) paragraph 030 advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.¹
3. The appellant suggests that the Council, in failing to resolve issues relating to the appeal application prior to determination and in particular, in making a decision that did not accord with the planning officer's initial recommendation, it caused an appeal to be necessary. In this regard it acted unreasonably.
4. PPG paragraph 030 states that behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded². One circumstance would be where those matters impact on the need for an appeal. In this regard, it is unfortunate that the planning officer's initial recommendation did not accord with the Council's final decision, but the recommendation of a planning officer is not the Council's decision, rather a planning officer's opinion. Furthermore, as the Council's concern was the principle of the proposed development, I consider that it did not act unreasonably in not giving the appellant an opportunity to resolve queries that arose prior to making its decision. Neither matter impacted on the need for an appeal therefore.
5. The appellant suggests that the Council incorrectly applied section 9 of the National Planning Policy Framework (the Framework), which seeks to protect Green Belt land and failed to appropriately balance the highway safety improvements against that harm. Due to this an appeal was necessary.

¹ ID 16-030-20140306

² ID 16-033-20140306

6. The Council in finding that the proposed development was 'inappropriate development' attached weight to the harm that it considered would result. It did this in accordance with paragraph 88 of the Framework, which sets out that substantial weight should be attached to such harm. It then weighed that harm against the other considerations advanced by the appellant, which related to the highway safety improvements that would result. It concluded that the very special circumstances required to outweigh the substantial harm to the Green Belt and any other harm identified did not exist. In this respect, I find that the Council's overall approach was in line with section 9 of the Framework and in this regard it acted reasonably.
7. Finally, the appellant suggests that the Council acted unreasonably in failing to determine the appeal application by the extended determination deadline. However, this matter, in itself, did not impact on the need for an appeal or the behaviour of parties during the appeal process. It therefore is not a matter for me.

Conclusion

8. I have identified that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG paragraph 030, has not been demonstrated. Therefore, a full award of costs is not justified.

R Barrett

INSPECTOR