
Costs Decision

Site visit made on 16 January 2017

by Graham Chamberlain BA MSc MRTPI

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

Decision date: 23rd January 2017

Costs application in relation to Appeal Ref: APP/E3525/W/16/3161066 Dover Farm, Stow Road, Ixworth, Suffolk IP31 2HZ

- 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 Terry Lucas for a full award of costs against St Edmundsbury Borough Council.
 - The appeal was against the refusal of planning permission for 4 new dwelling houses (plots 11, 12, 14 and 15) and associated garaging in lieu of 5 dwelling houses (plots 11, 12, 14, 15 and 16) previously approved under planning and listed building applications SE/11/1071 and 1072. Change of use of paddocks to residential garden land.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, the National Planning Practice Guidance (PPG) states that an award of costs may only be made against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The PPG¹ states that a lack of co-operation with another appeal party may result in an award of costs. The appellant has suggested that the Council behaved unreasonable by failing to agree to consider a 'duplicate' application, which would have been accompanied by an additional heritage assessment. The appellant considers this would have been a collaborative way in addressing the Council's reasons for refusing the planning application.
4. Nevertheless, as the Council had just refused the planning application, as it considered that the proposal would harm the character and special interest of local heritage and the countryside and would result in an ineffective use of land, it is unsurprising the Council were not acquiescent to this suggestion.
5. Whilst the development management system is intended to be collaborative and solution driven, I have not been presented with substantive evidence to suggest the Council's position following its decision was unreasonable. This is particularly so as I do not consider the case to be as 'clear cut' as the appellant, especially the impact on the setting of Dover House Farm. The appeal system is also in place to deal with schemes where agreement cannot be reached.

¹ Paragraph: 047 Reference ID: 16-047-20140306

6. Additionally, the Council did agree to meet the appellant in September 2016 following its decision and it is unclear whether there were any pre application discussions, which would have been an opportunity to front load the discussions. Furthermore, the appellant could have submitted the 'duplicate' application if they so wished as there is not any evidence before me to suggest the Council could have, or would have, turned it away.
7. The appellant has suggests that the Council confirmed that it would not be opposing the appeal until 22 December 2016. I have not however, been presented with anything to support this proposition. As such, I cannot afford it determinative weight in my consideration as to whether the Council has acted unreasonably. Consequently, I have found no procedural failure in respect of the Council's dealings with the application and subsequent appeal.
8. The appellant has also suggested that there was a substantive failure in the Council's decision, pointing to the evidence in the statement prepared by Dr Chris Miele as an indication that the reasons for refusal were without substance. I disagree. The Council's case officer arrived at his decision following expert advice from the Council's Conservation Officer. The arguments advanced were logical and not without merit. The appeal site is visible from Bury Road, the appeal scheme would truncate an historic paddock and fewer units are proposed relative to an approved scheme. Whilst I have concluded that these effects would not amount to harm, the basis of the Council's case was not so erroneous as to have been unreasonable. In effect, the matters in dispute were matters of judgement and the Council was entitled to apply its planning judgment in the way it did.

Conclusion

9. My overall conclusion is that the Council did not act unreasonably following its decision or in its assessment of the appeal scheme and thus there were no procedural or substantive failures. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Graham Chamberlain,
INSPECTOR