
Costs Decision

Site visit made on 10 January 2017

by Julia Gregory BSc (Hons), BTP, MRTPI, MCMI

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

Decision date: 06 February 2017

Costs application in relation to Appeal Ref: APP/J3720/W/16/3156555 Land North of Blackwell Road, and East of Tredington Primary School, Tredington CV36 4NU

- 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 Stratford on Avon District Council for a full award of costs against Braemar property Developments Ltd.
 - The appeal was against the refusal of planning permission for a residential development of up to 37 dwellings with associated open space, landscaping, drainage and infrastructure.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The costs application by the Council and the appellant's response were submitted in writing. It is not therefore necessary to give those in any great detail.
 4. For the Council, the application was made for an award of costs relating to the merits of the case. The Council had written to the appellant twice advising that the Core Strategy had been adopted and that there were clear policy conflicts. The appellant, having accepted the primacy of the development plan, should have recognised that there was no realistic prospect of success.
 5. The Council relies on the provision of the PPG which states that a substantive award of costs may be made where the development is clearly not in accordance with the Development Plan, and no other material considerations such as national planning policy are advanced that indicate the decision should be made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
 6. The Council argues that the defence of the appeal has resulted in significant unnecessary expense, including in respect of analysing the appellant's statements and appendices and highways evidence, and also in responding to further additional representations.
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7. The appellant on the other hand considers that he has provided a detailed analysis of the proposal's conformity with the development plan and proceeded to rehearse many of the arguments that are advanced in representations on the appeal. The appellant considered that there was a reasonable prospect of securing planning permission. Furthermore, highways matters have been resolved.
8. The PPG identifies that there is a right of appeal against most local authority decisions on planning permission. Parties in planning appeals normally meet their own expenses. It is not meant to be punitive.
9. I have considered carefully the circumstances of this appeal and the representations made. This included that there had been a recent previous appeal on the site, where the emerging CS was material to the determination to some degree. The appeal was made before the CS was adopted and the proposal included alterations in terms of reducing its scale significantly in the indicative layout and including a new connection to a public right of way. The appellant had resolved through the application and appeal the highway matters.
10. The appellant had sought to overcome concerns expressed by the previous Inspector. He had submitted various appeals to support points made. The representations on various points were extensive.
11. Furthermore, the appellant has the right of appeal. Whilst that should not be undertaken lightly, I am in no doubt as to the conviction of the appellant's belief in his case. Whilst ultimately I have dismissed the appeal and so I do not accept that planning permission should be granted, the appellant's case was lengthy and detailed.
12. Responding to appeals is a part of the responsibility of the local planning authority and nothing within the appellant's behaviour in respect of the way he behaved strikes me as being fundamentally contrary to the PPG. It is open to any appellant to put their case as they see fit, even if that results in much work for the Council. The appellant had sought to demonstrate how the development plan strategy would not be compromised. Furthermore, he had sought to overcome concerns expressed by the previous Inspector in the representations. That the appellant has been able to resolve highway's objections is in line with best practice to try to narrow differences and reach agreement on common ground.
13. I accept that the Council will have had expenses in dealing with the appeal, but this is all part of the Council's regulatory function. Therefore, for the reasons given, I conclude that the expenses were not unnecessary.
14. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Julia Gregory

Inspector