
Costs Decision

Site visit made on 17 January 2017

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 16 February 2017

Costs application in relation to Appeal Ref: APP/Y2430/W/16/3159899 Willow Tree House, Hickling Lane, Long Clawson LE14 4NW

- 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 & Mrs Anderson for a full award of costs against Melton Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing outbuildings, removal of areas of hardstanding and the erection of a single family dwelling, associated garage, and a new garage associated with Willow Tree House, and associated infrastructure and landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 applicant has raised a number of concerns in relation to the Council's Appeal Statement, which they claim amounts to unreasonable behaviour on behalf of the Council and has resulted in unnecessary and wasted expense in the preparation of their rebuttal statement.
4. First, they state that the LPA no longer refers to the substantive points regarding the reason for refusal i.e. the unsustainable location of the proposal and paragraph 55 of the National Planning Policy Framework (the Framework). However, from my reading of the Council's statement, it is clear that the sustainability of the location remains at the core of the Council's concerns. The applicant states that the Council devotes no attention to this, when in fact it is referred to a number of times in their statement.
5. Second, the applicants state that the Council has submitted 'fresh and substantial evidence' which has necessitated significant work regarding the appellants' rebuttal. In particular the applicants refer to Appendix 1 of the Council's statement which consists of a five year land supply report¹. However, I note that this report was published in November 2016 i.e. subsequent to the Council's decision on the planning application. This report updates the evidence base relating to housing supply in the area, and as this is material to

¹ Melton Borough Council Five Year Land Supply and Housing Trajectory Position, 2 November 2016.

the consideration of housing proposals the Council have not behaved unreasonably in using the most up to date evidence as part of this appeal.

6. The applicants claim that elements of the housing supply report were available in advance of its publication, such as sites submitted to the Strategic Housing Land Availability Assessment 2016 (SHLAA). However, the Council state that work was on-going in relation to the SHLAA up to October 2016, which led to the publication of the land supply report in November 2016. On this basis I do not consider that the Council have been dilatory in presenting this evidence and have therefore not behaved unreasonably.
7. Third, the applicants state that the Council has introduced a new reason for refusal due to reference to Policy OS2 of the Melton Local Plan 1999 (MLP). However, the Council Officer's report assesses the proposal against Policy OS2 in some detail, although it also makes reference to paragraph 49 of the Framework which advises that local housing policies will be considered out of date where the Council cannot demonstrate a 5 year land supply. The Council now considers that it can demonstrate a 5 year housing land supply and that Policy OS2 should be considered up to date and given some weight. The Council are entitled to revisit the status of planning policies in the light of new evidence such as the land supply report, and have therefore not behaved unreasonably in doing so.
8. Fourth, the applicants state that the Council has introduced new reasons for refusal due to reference to paragraphs 56, 58, 61 and 64 of the Framework which relate to requiring good design. The Council state that these paragraphs relate to "design in terms of the location of the dwelling". Whilst I consider that this is stretching the application of these paragraphs to a degree, I acknowledge that they include references to safe and accessible environments as well as addressing the connections between people and places and the way an area functions.
9. Notwithstanding this, the Council's stance on the design of the proposal is clearly stated in the Officer's report and in section 5.4 of its statement of case. The applicants' response on this matter has been clearly provided in their rebuttal statement. It seems to me that there has been only very minimal extra work in responding on this matter. In effect the applicants have quickly and easily provided a rebuttal to the Council's position on these paragraphs of the Framework without wasting expenditure.
10. I therefore find that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

David Cross

INSPECTOR