
Costs Decision

Site visit made on 13 February 2017

by Zoe Raygen Dip URP MRTPI

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

Decision date: 03 March 2017

Costs application in relation to Appeal Ref: APP/E2001/W/16/3161230 27 North Bar Without, Beverley, East Riding of Yorkshire HU17 7AG

- 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 Dr Alan Underwood for a partial award of costs against East Riding of Yorkshire Council.
 - The appeal was against the refusal of planning permission for the erection of new dwelling house with four bedrooms and a car park.
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Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Reasons

2. The National Planning Practice Guidance (PPG) 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 the costs to incur unnecessary or wasted expense in the appeal process.
 3. The PPG makes it clear that a Council is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal.
 4. In this instance Council officers recommended to the Planning Committee that the planning application be granted. Members of the Council did not agree and resolved to refuse the application for two reasons. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
 5. The Council advised the appellant via an email dated 12 January 2017 that it would not be defending its reason for refusal regarding the impact of the development on the living conditions of neighbouring residents. They did not therefore provide any evidence to substantiate that reason for refusal. The appeal was submitted on the 18 October 2016, although the start letter was not sent to the Council until 12 December 2016 it would have been aware of the submitted appeal from the earlier date. Even taking the later date there was a lengthy period of time between the Council's knowledge of the appeal and its decision not to defend the reason for refusal.
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6. I therefore find the Council has acted unreasonably both in being unable to substantiate the reason for refusal and in the delay in advising the appellant of this course of action. Irrespective of the amount of expenditure involved, this resulted in unnecessary expense for the appellant in the preparation of his appeal submission. Given my findings, a partial award of costs is justified and, to this extent, the application succeeds.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that East Riding of Yorkshire Council shall pay to Dr Alan Underwood the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in relation to the Council's reason for refusal dealing with the effect on living conditions.
8. The applicant is now invited to submit to East Riding and Yorkshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Zoe Raygen

INSPECTOR