

Costs Decision

Site visit made on 13 February 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 7th March 2017

**Costs application in relation to Appeal Ref: APP/Y2430/W/16/3161385
Land to the north of Tofts Hill, Tofts Hill, Stathern,
Leicestershire LE14 4HU**

- 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 Mrs Georgia Moore for a full award of costs against Melton Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing agricultural buildings and erection of one detached house, one bungalow and outbuildings.
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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. Unreasonable behaviour described in the PPG can either be procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
 3. The application maintains there had been unreasonable behaviour in a procedural sense through the Council having originally registered the application with an inaccurate address. This was considered to have prompted a number of objections from interested parties who had believed these proposals related to another site on the other side of Tofts Hill, which had been the subject of previous applications and also submitted as a SHLAA site.
 4. The PPG advises that costs cannot be claimed for the period during the determination of the planning application but that parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviours and actions at the time of the planning application can be taken into account in the decision on a costs application.
 5. I do not consider this procedural error would have altered the Council's decision and the representations made all seem to relate to the correct site, with some referring to the erroneous address given. Any negative tone set by this mistake would not have been sufficient to have materially affected the Council's decision in my view. Consequently, the Council's administrative error
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in this instance would not provide adequate grounds for a procedural award of costs in relation to the subsequent appeal.

6. Paragraph 047 of the Framework provides examples of the types of behaviour which may give rise to a procedural award against the Council. There was no lack of co-operation with the applicant on the part of the Council which might have justified a procedural award. There is evidence that the Council participated in the pre-application engagement sought in the chapter on decision-taking in the National Planning Policy Framework. However, the Council would not have been bound by any pre-application advice. Whilst guidance might have been given over the details necessary to determine the proposal, the provision of this would not have obliged the Council to grant approval if, despite the information provided, the scheme would not gain the support of development plan policy.
7. I have considered the examples given in paragraph 049 of the PPG of the types of behaviour which might give rise to a substantive award of costs against the Council, which are referred to in this application. However, as the appeal decision supports the reasons for refusal there is no substantive basis for a costs award in the Council having made vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis or prevented a development that should clearly have been permitted.
8. I do not consider that the Council had acted unreasonably in substantiating its decision on the saved policies in the development plan and not also considering the Settlement Fringe Sensitivity Study¹, despite the appellant's views over the support this provided the case.

Conclusion

9. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. I conclude therefore that an award of costs in this case is not justified.

Jonathan Price

INSPECTOR

¹ Melton Borough Council – Areas of Separation, Settlement Fringe Sensitivity and Local Green Space Study – September 2015