
Costs Decision

Site visit made on 14 March 2017

by Nick Palmer BA (Hons) BPI MRTPI

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

Decision date: 30 March 2017

Costs application in relation to Appeal Ref: APP/V2635/W/16/3166044 Land at The Priory, Nursery Lane, North Wootton, King's Lynn, Norfolk PE30 3QB

- 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 Stephen Evans for a full award of costs against King's Lynn and West Norfolk Borough Council.
 - The appeal was against the refusal of planning permission for 3 new dwellings.
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Decision

1. The application 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 Council's Planning Committee refused permission against the advice of its officers including the Council's Conservation Officer. The applicant states that the Council introduced fresh and substantial evidence at a late stage. The nature of this evidence is not specified in the costs application but in his final comments the applicant states that the Council referred to additional policies in its statement that were not cited in its decision. The applicant further contends that the Council did not determine the application in accordance with the development plan and has not substantiated its reasons for refusal.
 4. The Council has advised that the application was referred to its Planning Committee in accordance with its scheme of delegation because North Wootton Parish Council had objected to the proposal.
 5. The first and second reasons for refusal concern the effect of the proposal on the character and appearance of the area and specifically its effect on the setting of a designated heritage asset. These are matters of judgement and the Planning Committee was not bound to follow the recommendation of its officers. I have found similarly to the Planning Committee on these matters in my decision on the appeal and have concluded that the proposal would not accord with the development plan.
 6. The Council referred in its statement to policy DM22 of the Site Allocations and Development Management Policies Plan. The Council's reasons for refusal did not make specific reference to that policy but at the time of its decision this had not been adopted. Policy DM22 concerns the protection of local open
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space which is a matter that forms part of the first reason for refusal. This is not therefore a new issue or fresh and substantial evidence.

7. The third reason for refusal concerns flood risk and refers to paragraph 109 of the National Planning Policy Framework (the Framework). That paragraph is not directly relevant to flood risk but concerns a range of environmental matters. The Council has acknowledged that this reference was an error and has corrected this by referring in its statement to paragraphs 99 to 103 of the Framework which are relevant to flood risk.
8. The applicant's appeal documents make only passing reference to paragraph 109 and there is no evidence that any significant unnecessary work was undertaken in this respect. The reference in the Council's statement to Framework paragraphs that are relevant to flood risk do not introduce new evidence.
9. The Environment Agency had no comment on the application. The Council provided the Environment Agency's flood warnings map to substantiate its third reason for refusal. This demonstrates a localised risk of surface water flooding. Interested parties who have knowledge of the area also attested to this risk.
10. I have found that the imposition of suitable conditions would overcome this reason for refusal. However other than local knowledge there appears to have been little technical information available to the Council when it made its decision. There was no input from statutory consultees on this matter and the applicant had not provided information to demonstrate that the drainage issue could be satisfactorily addressed. For these reasons I find no unreasonable behaviour by the Council on this point.
11. The Council has adequately explained and substantiated its reasons for refusal. For the reasons given I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated.

Nick Palmer

INSPECTOR