
Costs Decision

Site visit made on 3 May 2017

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 26 May 2017

Costs application in relation to Appeal Ref: APP/H2835/W/16/3165904 119 Overstone Road, Sywell, Northampton NN6 0AW

- 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 Tom Matthews for a full award of costs against Borough Council of Wellingborough.
 - The appeal was against the refusal of planning permission for the erection of a new detached dwelling house and 2 car detached garage with off road parking and landscaping.
-

Decision

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

Reasons

2. 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 costs to incur unnecessary expense in the appeal process.
 3. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example by unreasonably refusing planning applications and preventing or delaying development which should clearly be permitted; or procedurally, for instance, by failing to produce evidence to substantiate each reason for refusal on appeal or by providing vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
 4. The applicant criticises the Council's appeal statement, suggesting it makes inaccurate assertions, vague unsubstantiated comments and was produced by an officer unsuitably qualified in arboricultural matters.
 5. The alleged inaccurate assertions relate to the removal of a tree. However as that tree was removed prior to the submission of the appeal it cannot have had any bearing on either parties' arguments regarding the proposed development and so cannot have led to any wasted expense on behalf of the applicant.
 6. Also, although the applicant considers the comments made in the Council's appeal statement to be unsubstantiated, I consider they generally reflect the detailed comments made in the officer's committee report which considers the
-

trees identified to be removed and the effect of their removal on visual amenity. Therefore, the Council have not acted unreasonably in this regard.

7. Regarding the qualifications of the Council's Landscape Officer, from the evidence before me she would appear to have significant experience in arboricultural matters such that she would be able to take an informed view of the development. As such, in this respect also, the Council have not acted unreasonably.
8. In the case of the second reason for refusal relating to the adverse effect on the occupiers of the neighbouring property, no evidence was provided to support the Council's decision. The lack of any substantiation of this reason for refusal, either in the Council's appeal statement or officer's report, is unreasonable behaviour. Nonetheless, I do not consider it has led to any unnecessary expense on behalf of the applicant as this issue was also raised by the occupier of the neighbouring property to which the applicant responded.
9. Lastly I agree the Council's response to the costs application does little to address the points raised in the application. However again, I do not consider that has resulted in any wasted expense on behalf of the applicant.
10. As such I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and consequently the application for an award of costs is refused.

Andrew Owen

INSPECTOR