
Costs Decision

Site visit made on 7 June 2017

by Brendan Lyons BArch MA MRTPI IHBC

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

Decision date: 16th June 2017

Costs application in relation to Appeal Ref: APP/W0530/W/17/3168454 123 Meldreth Road, Whaddon, Cambridgeshire SG8 5RS

- 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 Geoffrey Hyland for a full award of costs against South Cambridgeshire District Council.
 - The appeal was against the grant subject to conditions of planning permission for demolition of the existing bungalow and erection of a two-storey replacement dwellinghouse.
-

Decision

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

The submissions by the parties

2. The appellant's application for an award of costs was submitted with the appeal. The Council provided a written response, to which the appellant did not reply.

Reasons

3. The Government's Planning Practice Guidance ('PPG') on Appeals 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.
 4. Paragraph 49 of the PPG lists examples of types of behaviour by a local planning authority that may give rise to a substantive award. These include imposing a condition that does not comply with the guidance on conditions set out in the National Planning Policy Framework ('NPPF').
 5. The appeal was based on the appellant's case that Condition No.10 of the planning permission, which restricted 'permitted development' rights, was unnecessary and unreasonable. My decision upholds this argument, finding that no clear justification for imposing the condition had been provided, contrary to NPPF policy, and that exceptional circumstances to show the need for the condition had not been shown, as advised by the PPG.
 6. The Council's case for the appeal was based solely on a section of the original officer report on the planning application. The additional points of justification made by the Council in response to the costs application were taken into account in the appeal decision.
-

7. I consider that in imposing the disputed condition without adequate justification the Council has behaved unreasonably in the terms of the PPG and that the appellant has as a result incurred unnecessary expense in submitting the appeal. I conclude that a full award of costs is justified.

Costs Order

8. 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 South Cambridgeshire District Council shall pay to Mr Geoffrey Hyland the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to South Cambridgeshire District 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.

Brendan Lyons

INSPECTOR