



Costs Decision

Site visit made on 18 July 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 28 July 2017

Costs application in relation to Appeal Ref: APP/E2001/W/17/3173146 33 Hook Road, Goole, East Yorkshire, DN14 5JB

- 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 C Reid Smith for a full award of costs against East Riding of Yorkshire Council.
 - The appeal was against the refusal of planning permission for alterations to the existing house to form 4 self-contained flats.
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Decision

1. The application for an award of costs 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 the costs to incur unnecessary or wasted expense in the appeal process.
3. The Council took an excessively long time to determine the application and I note that it did not ask for amended plans until a very late stage in the proceedings. Regardless of not having the Environment Agency response before this time, there is enough guidance in the Strategic Flood Risk Assessment to have enabled the Council to have made progress on the application without having to wait for the consultation response. The Council could have raised the issue of sleeping accommodation long before it did because the information it needed is available in the SFRA. The Council has not convinced me of any valid excuse for the delay in processing the application and I consider this delay to be a clear case of unreasonable behaviour.
4. The applicant alleges that a "safe or convenient access to a place of refuge" is not defined by the Council. However, the applicant provided, as part of his appeal documentation, the table from the SFRA, "Development Control Recommendations", which says, in respect of a "safe refuge" that *"It is essential to ensure that the nominated evacuation route does not divert evacuees onto a 'dry island' upon which essential supplies (i.e. food, shelter and medical treatment) will not be available for the duration of the flood event."* Whilst there is an element of subjectivity in judging whether or not a refuge would be a "dry island", I have agreed with the Council that the proposed refuge area would not be suitable as it would be cut off from basic facilities. I therefore find no unreasonable behaviour in the way the Council assessed the suitability of the proposed refuge.

5. The Council's reason for refusal refers to the "Sequential Approach". However, it is clear to me, from an ordinary reading of the decision notice, that the refusal related to sleeping accommodation being on the ground floor without a satisfactory refuge at first floor. The Council's case was clearly based around this issue and the Council has not actually said that a sequential test should have been undertaken. The refusal reason is carelessly and erroneously worded but the meaning of the refusal is not lost by the error.
6. The Council has displayed unreasonable behaviour by its delay in determining the planning application. The reference to the sequential approach in the reason for refusal is unprofessional. However, I cannot make an award of costs on the basis of unreasonable behaviour alone. I also need to find that the applicant has incurred unnecessary or wasted expense. The application would have been refused anyway due to the ground floor sleeping accommodation and lack of an appropriate first floor refuge. Therefore, the expense of the appeal could not have been avoided. Furthermore, as the appellant did not undertake a sequential test in order to defend the appeal, there has not been any wasted expense in respect of the poorly worded refusal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the applicant's claim for costs fails.

Siobhan Watson

INSPECTOR