



Costs Decision

Site visit made on 9 August 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 18th August 2017

Costs application in relation to Appeal Ref: APP/F2605/W/17/3170052 The Old Post Office, Main Road, Little Fransham NR19 2JW

- 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 H Powell for a full award of costs against Breckland District Council.
 - The appeal was against the refusal of planning permission for residential development consisting of 2No. dwellings with associated double garages (revised application).
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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.
3. The appellant alleges that the Council has behaved unreasonably with respect to the substance of the matter forming the subject of the appeal. It is alleged that at the time of the Council's decision the Council erroneously considered that it could demonstrate a five year supply of deliverable housing land in accordance with paragraph 47 of the National Planning Policy Framework (the Framework) and determined the application accordingly.
4. Specifically, it is alleged that prior to the Council's decision the agent employed to represent the appellant at appeal was engaged in detailed discussions and correspondence with the Council on matters relating to five year supply and another scheme. The appellant alleges that those matters should have led the Council to conclude that it could not demonstrate a five year land supply with regard to the appeal scheme and subsequently granted planning permission. On this basis it is alleged that the costs of the appeal were avoidable.
5. I acknowledge that the ability to demonstrate five year land is not a site specific matter. However, if a Council cannot demonstrate a five year land supply it does not directly follow that planning permission should automatically be granted. On the basis of the evidence before me, even though I have found the proposal would amount to sustainable development when assessed against the Framework taken as a whole, there is no substantive evidence before me which directly indicates that the Council would have reached the same view.

6. Furthermore, as soon as the Council had formally reassessed its five year land supply position, it made clear through the appeal process that it could no longer demonstrate a five year supply.
7. The Council also communicated its five year land supply position prior to determining the planning application to the agent acting for the appellant at that time. I am told no substantive evidence was submitted to challenge this stance at that time.
8. Thus, for the reasons given, I find the appeal was inevitable and the Council acted reasonably in reaching its decision and engaging on the planning application and in the appeal process. I therefore find that unreasonable behaviour resulting in unnecessary expense has not been demonstrated.

L Fleming

INSPECTOR