
Costs Decision

Site visit made on 24 October 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 15 November 2017

Costs application in relation to Appeal Ref: APP/F1610/W/17/3179661 Land off Whiteway View, Stratton GL7 2HN

- 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 Risby of W Risby Limited for a partial award of costs against Cotswold District Council and the Environment Agency.
 - The appeal was against the refusal of outline planning permission for the erection of 7 dwellings including access and layout (all other matters reserved).
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Decision

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

Procedural Matter

2. I have taken into account the Government's Planning Practice Guidance (PPG), issued on 6 March 2014, in reaching my decision.

Reasons

3. The 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 or wasted expense in the appeal process.
4. The appellant claims that the Council and Environment Agency (the EA) acted unreasonably by introducing a new reason for refusal concerning flooding due to the late objection from the EA and the apparent support of this by the Council.
5. The EA did not make comments on additional submissions presented by the appellant at the planning application stage in an attempt to address original EA objections. The Council proceeded to refuse planning permission but not on grounds relating to flooding.
6. Whilst the EA has, at the appeal stage, now provided further comments on those submissions and maintains its objection, the Council has not attempted to change its position by seeking to add a reason for refusal relating to flood risk. In its appeal statement it simply reports the EA's position and does not add to its analysis regarding this matter set out in the planning officer's report on the original planning application.
7. Furthermore, I note that in the EA's appeal submission, it accepts that flood risk will now not be considered as part of the appeal but instead recommends conditions were the appeal to be allowed.

8. In conclusion, for the above reasons, I find that the Council and EA have not behaved unreasonably in terms of their submissions at the appeal stage relating to flood risk and that, therefore, the applicant's costs in pursuing the appeal were not unnecessarily incurred or wasted. For this reason, and having regard to all other matters raised, neither a full or partial award of costs is justified.

Andrew Dawe

INSPECTOR