



Costs Decision

Site visit made on 30 July 2019

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Costs application in relation to Appeal Ref: APP/F2415/W/19/3229976 Land off Fenny Lane, Shearsby

- 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 AWPP for a partial award of costs against Harborough District Council.
 - The appeal was against the refusal of outline planning permission for the erection of four residential dwellings with associated access and community orchard.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. Paragraph 030 of the National Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG also highlights that examples of unreasonable behaviour include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; or a failure to fully substantiate a reason for refusal.
3. In this case, the applicant considers that by refusing the application for outline planning permission, it prevented discussions from taking place as to how the objections of the Local Highway Authority (LHA) could be resolved. Consequently, the applicant, through the appeal process, submitted additional information to address these objections. It is claimed that this created wasted expense, such as by securing additional professional advice. Given that these amendments addressed the outstanding highway concerns, it is claimed the relevant reason for refusal was not fully justified.
4. It has been confirmed to me that the Council highlighted to the applicant that objections had been received from the LHA, and that a period of time was provided to enable amendments to be made to the scheme to address these concerns. I also note that there appears to have been a dialogue between the Council and the applicant, which covered all concerns pertaining to the proposed development, and not just highway matters. Whilst I note that the proposed development was amended in respect of highway matters, it appears that it was not possible to overcome these objections.
5. The delegated report states that, based on the revised information provided, the requirements of the Development Plan had been breached. The Council, in

the delegated report, clearly identified some harm arising from this breach and was therefore entitled to give it weight in the planning process.

6. In addition, I note that the Council sought the views of the Local Highway Authority. Given that the development involved alterations to the highway, it was not unreasonable that these views be considered relevant to the assessment of the development. Consequently, the Council acted reasonably in basing their decision on the information available to them and evidenced the reasons for their decision.
7. Whilst I realise that in submitting the appeal, the applicant has been required to obtain pertinent professional advice and revised the scheme to the extent that had I been minded to allow the appeal, I would not have had any reservations regarding the impacts of the development upon the highway. However, at the time of determining the planning application the Council would not have had any significant degree of certainty that this position would be reached. Accordingly, I do not believe that it was possible to state that at the time of determining the application, it should have clearly been permitted.
8. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such, I do not believe that the appellant was put to unnecessary or wasted expense. Therefore, a partial award of costs is not justified.

Conclusion

9. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Benjamin Clarke

INSPECTOR