



Costs Decision

Site visit made on 3 September 2019

by P Mileham BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2019

Costs application in relation to Appeal Ref: APP/W3520/W/19/3232003 Land to the west of The Oaks and to the south of the entrance to The Grange, Green Road, Woolpit Green, Bury St. Edmunds IP30 9RG

- 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 and Mrs Tim and Kathy Parker for a full award of costs against Mid Suffolk District Council.
 - The appeal was against the refusal of planning permission for the erection of a single detached dwelling and annexe and garaging with access off Green Road, Woolpit Green.
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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 application identifies three grounds for the award of costs. The applicants consider that the Council failed to comply with planning policy by applying an incorrect level of harm in relation to the effect of the proposed development on heritage assets and then did not consider whether any public benefits might have outweighed the harm having regard to established case law.
4. The Council was entitled to reach a reasoned judgement on the level of harm it considered would arise from the scheme in terms of the heritage assets which was set out in the Officer's report. The Council's position in respect of heritage assets was made clear during the consideration of the application and although the phrasing used in the Officer's report may not at times have been wholly consistent with the National Planning Policy Framework (the Framework), the applicants own supporting material recognised that the scheme would result in less than substantial harm, and as a result, the consideration of public benefits would necessarily require supporting evidence. Public benefits were identified in the Officer's report, and whilst a more detailed consideration of how each one was weighed in reaching its decision would have been helpful, the Council still concluded that these did not outweigh the harm to heritage assets it identified. Although there remained disagreement between the parties, the Council was entitled to exercise judgement and this would not necessarily have resulted in a different decision being taken and an appeal being avoided. In reaching this decision, I have had regard to all of the evidence before me, and I do not

consider the Council's behaviour has been unreasonable. Notwithstanding my findings on the appeal itself, there is nothing before me to suggest that the applicants should not have had to provide their own assessment of public benefits.

5. The second area where the applicants consider the Council has acted unreasonably is in its lack of engagement during the appeal regarding the statement of case. The Council chose to rely on the contents of its Officer's report, rather than provide an appeal statement. Whilst many appeals are supported by appeal statements from the Local Planning Authority, in this case the Council is entitled to rely on the Officer's report to provide the justification of the reasons for the refusal of planning permission.
6. Therefore, although the Council could have provided an appeal statement and any subsequent final comments, the applicants were still able to respond to the Council's reasoning for its decision as part of the appeal. As such, there is no evidence before me that indicates there has been any unreasonable behaviour in this regard resulting in unnecessary or wasted expense during the appeal process. Parties are also expected in planning appeals to normally meet their own expenses.
7. The applicants' third ground for an award of costs was that the Council prevented development that should have been permitted. The applicants and the Council have a difference of view about the assessment of the setting of heritage assets. The applicants consider the Council failed to consider the planning permission for two dwellings north of the appeal site in reaching its findings. However, the scheme referenced has been listed in the planning history section of the Officers report indicating that it was considered during the initial determination.
8. The Council's finding of harm to the setting of heritage assets has been disputed. The Council reached a planning judgement, and there is no evidence in front of me to suggest that the Council should have necessarily concluded that there was no harm to heritage assets and granted planning permission. It was therefore entitled to exercise judgement when considering the proposal, and as a result, there is nothing before me to suggest that the Council has prevented or delayed development that should otherwise have been permitted.

Conclusion

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

P Mileham

INSPECTOR