



Costs Decision

Site visit made on 13 August 2019

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 29 November 2019

Costs application in relation to Appeal Ref: APP/F2605/W/19/3229905 Land to the north of Rookery Farm, Litcham Road, Great Dunham, Kings Lynn PE32 2GZ

- 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 Mrs Carine Offord for a partial award of costs against Breckland District Council.
 - The appeal was against the refusal of planning permission for the erection of 4 dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance ("the 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 PPG indicates that local planning authorities will be at risk of an award being made against them in the following circumstances:
 - If they introduce fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen; and
 - If they prolong the proceedings by introducing a new reason for refusal.
4. The applicant submits that the Council relied on Policy DC16 of its development plan in its appeal submission, but that this policy does not appear in its decision notice.
5. Policy DC16 concerns design. The Council states in both its case officer report and its appeal statement that "the proposal would not reflect the form and character of the village, as required of Policy DC16 on design". Thus, whilst the Council does not rely on the policy in its decision notice, some conflict with the policy had been identified prior to the submission of the appeal.
6. The concerns raised by the Council in the extract above are similar to the reasons contained in the second reason for refusal of its decision notice, which concerns the proposal's effect on the character and appearance of the area. Therefore they do not comprise fresh evidence. As a brief reference to policy

within the overall case, neither do they rely on any substantial new information.

7. Whilst I concur that all policies relied on by a Council in refusing permission should be cited in its decision notice, the reference to Policy DC16 within the Council's appeal statement consequently comprises neither fresh nor substantial evidence. Furthermore, as it was submitted within the necessary timescale and the applicant subsequently had 14 days in which to submit any final comments, neither was it introduced at an unacceptably late stage.
8. The reference to a policy concerning the proposal's effect on the character and appearance of the area does not introduce a new reason for refusal of permission, as this was already one of the reasons.
9. Accordingly, the circumstances that risk an award of costs on the grounds described above are not present in this instance.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

C Beeby

INSPECTOR