
Costs Decisions

Hearing Held on 28 November 2019

Site visit made on 28 November 2019

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2020

Costs application in relation to Appeal A Ref: APP/D0515/W/18/3203159 20 Deerfield Road, March PE15 9AH

- 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 M Cooper for a full award of costs against Fenland District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for development described as "to demolition the existing bungalow and out building, clear the site and construct 4 one bedroom homes with associated access ways, parking and private gardens."
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Costs application in relation to Appeal B Ref: APP/D0515/W/19/3228977 20 Deerfield Road, March PE15 9AH

- 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 M Cooper for a full award of costs against Fenland District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for development described as "to demolish the existing bungalow and out-buildings, clear the site and construct 4 one bedroom homes with associated access ways, parking and private gardens."
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Costs application in relation to Appeal C Ref: APP/D0515/W/19/3236639 20 Deerfield Road, March PE15 9AH

- 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 M Cooper for a full award of costs against Fenland District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for development described as "to demolish the existing bungalow and out-buildings, clear the site and construct 4 one bedroom homes with associated access ways, parking and private gardens."
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Decision

1. The applications for an award of costs are refused.

The submissions for Mr M Cooper

2. The costs applications were submitted in writing with additional points made orally at the Hearing.

3. The appellant considers that development has been prevented that should clearly be permitted having regard to its accordance with development plan and national policy including the development meeting a housing need in the area in relation to policies of the March Neighbourhood Plan 2017. It was indicated that the applications were dealt with in a "biased way" with misleading information in the Council's reports relating to dimensions and location of rooms. The appellant considers comments relating to the character of the area were generalised. Issues relating to parking provision and garden spaces were also not determined in a similar manner to other development in the area.

The response by Fenland District Council

4. The Council's response was made orally at the Hearing.
5. The Council noted that housing need is a material consideration however it does not outweigh the identified harm on each scheme. Weight was given to the relevant development plan and national policies which is detailed in the reports and the decision notices. The Council indicated that Members were aware of all issues prior to reaching a decision on the applications. It was noted that the matter of character is subjective however evidence has been provided that supports the refusal reasons on this matter. The Council also indicate that each application should be determined on its own merits, nevertheless the other developments in the area are different in context some of which were approved under different development plan policies.

Reasons

6. Paragraph 030 of the Planning Practice Guidance 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.
7. It will be seen from my decision that I consider some of the main issues of the proposals to be in accordance with the relevant policies in the development plan and the National Planning Policy Framework. Some of these issues, including character, are subjective in matter and the Council's reports as well as evidence presented at the Hearing clearly discuss why they consider the proposals are unacceptable in relation to the development plan and national policies. The Council also acknowledge that housing need is a material consideration however they feel this consideration does not outweigh their perceived harm resulting from the main issues of the proposed schemes. I am therefore satisfied that the Council have not acted unreasonably and has shown that it was able to substantiate its reasons for refusal.
8. The appellant claims that the Council have not determined similar cases in a consistent manner referencing other development on Deerfield Road and also including schemes at Dagless Way and Jim Hocking Court. Each application should be determined on its own merits and there was also insufficient evidence presented that these other developments had been approved under current development plan policies. I am satisfied that the Council have not acted unreasonably in this regard.
9. The Council contended at the Hearing that Members of the planning committee were aware of all the issues with regards to the proposed schemes, including

having layout plans present at the meetings. The minutes of the planning committees show that Dr Whickham had made Members aware of discrepancies in the Council's reports. I am satisfied that Members of the planning committee were not mis-led and that they had the relevant information in which to determine the applications. The Council have not acted unreasonably in this matter.

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Chris Baxter

INSPECTOR