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## Costs Decision

Site visit made on 3 February 2020

**by S A Schinaia MSc EngD FGS**

**an Inspector appointed by the Secretary of State**

**Decision date: 2<sup>nd</sup> March 2020**

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### **Costs application in relation to Appeal Ref: APP/Y2620/W/19/3239153 Site Adjacent to The New Bungalow, Thurning Road, Briston NR24 2JW.**

- 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 P Semmens for a full award of costs against North Norfolk District Council.
  - The appeal was against the refusal of planning permission for erection of one and a half storey dwelling with detached garage.
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### **Decision**

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

### **Reasons**

2. Planning Practice Guidance 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 expense in the appeal process.
3. The application relies on the fact that the North Norfolk District Council has tested the application against an out of date version of the National Planning Policy Framework (the Framework) and that in the decision to refuse planning permission the Council has referred to paragraph 55 of the 2012 version of the Framework instead of referring to the more recent 2019 version.
4. The appellant contends that in testing the application against the out of date 2012 version of the Framework, the Council has failed to recognise the "progressive approach in supporting rural housing developments" taken by the 2019 version of the Framework. According to the appellant, the 2019 version gives greater prominence to the importance of rural housing and provides "a more explicit direction for understanding the important roles that different settlements play". Furthermore, in alleging conflict with paragraph 55 of the 2012 version of the Framework, the appellant argues that the Council has clearly misapplied well established case law in finding the application site to be isolated, when there is clear evidence that the appeal site is in close proximity of other dwellings and the settlement boundary of the village.
5. Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they
  - provide information that is shown to be manifestly inaccurate or untrue;

- prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
  - act contrary to, or not follow, well-established case law.
6. Through the Planning Officer's report, the Council points out that the Framework encourages sustainable patterns of developments and that the proposal would not be sustainable due to the poor accessibility to services. The Planning Officer's report has also specified that the location of the proposal is not physically isolated and the Council does not refer to the proposal as an isolated site. In my decision I agree with the above reasoning for refusing the planning permission.
7. Paragraph 55 of the 2012 version of the Framework seeks the promotion of sustainable development in rural areas through the delivery of housing to "be located where it will enhance or maintain the vitality of rural communities". The same concepts with similar wording are expressed in paragraph 78 of the 2019 version of the Framework. Paragraph 55 of the 2012 version of the Framework also states that the development of new isolated homes should be avoided and sets the exception criteria to allow them. This is now part of paragraph 79 of the 2019 version Framework.
8. Given the similarities between paragraphs in both versions of the Framework, I believe there is no greater prominence to the importance of rural housing in the 2019 version of the Framework. Therefore, I am satisfied that the Council has made an administrative error in referring to a wrong version of the Framework, but has assessed the application correctly, giving the proposal the right weight in relation to the issues of rural housing.
9. As a result, I do not agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant has incurred unnecessary expenses.

### **Conclusion**

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

*S A Schinaia*

Inspector