
Costs Decision

Site visit made on 16 March 2020

by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7th May 2020

Costs application in relation to Appeal Ref: APP/R1038/W/19/3242867 Carbery Wood, Kelstedge Lane, Brockhurst, Ashover S45 0HP

- 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 & Mrs Temperton for a full award of costs against North East Derbyshire District Council.
 - The appeal was against the refusal of planning permission for "to construct a 2nd dwelling to the site known as Carbery Wood on Kelstedge lane in Ashover".
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Decision

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

Appeal Procedure

2. An Appeal Planning Officer has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons

3. 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. Awards may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. Costs may be awarded to any party regardless of the outcome of the appeal.
4. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters such as providing information that is shown to be manifestly untrue or inaccurate, or deliberately concealing relevant evidence, and substantive matters such as 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 fails to provide evidence to substantiate the reasons for refusal.
5. The application for costs centres on what took place at the planning committee meeting when the planning application was determined by the Local Planning Authority, including matters relating to attendance at a site visit, what was said by a Council member and alleged confusion over the voting process. However, procedures adopted by a planning authority for determining planning applications are generally a matter for the authority within the context of local government accountability. Whether there was any maladministration during

- the process in accordance with the Council's procedures is therefore a matter for the Council itself.
6. Although the Council's planning officer recommended the application for approval, the planning committee was entitled to reach its own conclusion on the development proposal. The minutes of the meeting show that a discussion was held, including a presentation of the issues from the Council. Interested parties, including the applicant, had an opportunity to present their own views. I am unconvinced on the evidence before me that information presented to committee was manifestly untrue or inaccurate or that relevant evidence was concealed. Moreover, whilst the appellant disagrees with the decision, the application was determined in accordance with the development plan.¹ In addition, evidence to substantiate the reason for refusal has been provided at appeal.
 7. The PPG is clear that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs. Where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application.
 8. In this case, the matter was one of a fundamental disagreement between the parties which could have only been resolved by way of an appeal. As such unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, an award of costs is not justified.
 9. For this reason and taking into account all other matters raised, I recommend that the application is refused.

Hilary Senior

APPEALS PLANNING OFFICER

Inspector's Decision

10. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for an award of costs is refused.

Susan Ashworth

INSPECTOR

¹ Section 38 (6) of the Planning and Compulsory Purchase Act 2004.