
Costs Decision

Site visit made on 30 June 2020

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2020

Costs application in relation to Appeal Ref: APP/L2630/W/19/3242648 Oak Tree Farm, Alburgh Road, Hempnall, Norfolk NR15 2NP

- 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 Quinton Brown for a full award of costs against South Norfolk Council.
 - The appeal was against the refusal of planning permission for erection of dwelling and garage.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Advice over the award of planning appeal costs is set out in the Government's Planning Practice Guidance (PPG). It states the established premise that parties to an appeal normally meet their own costs. However, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be liable to an award of costs. Unreasonable behaviour in this context may be procedural, relating to the appeal process, or substantive, relating to issues arising from the merits of the appeal.
3. The costs application was made on two grounds. Regarding the first, I do not find the Council acted unreasonably by failing to apply the legal duty to determine the original application in accordance with the development plan, taking into consideration whether material considerations indicated otherwise. It is evident from the delegated report that the Council had weighed up the various benefits and disadvantages of a dwelling in this location before making a decision.
4. In respect of the second ground, I also do not consider it unreasonable for the Council to have reviewed its position over the location's accessibility to services and facilities, and the resulting degree of private car use dependence, following its earlier reasons in refusing planning permission for a dwelling on this site. This was made in the light of the findings in appeal decisions made in the interim, which would have been material to this consideration.
5. Paragraph 050 of the PPG¹ advises that 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

¹ Paragraph: 050 Reference ID: 16-050-20140306 Revision date: 06 03 2014

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. Based on the appeal decision, I consider the advice of the PPG would apply in this case.

Conclusion

6. I am satisfied that the Council applied a reasonable degree of balancing in reaching the decision that led to the appeal, including consideration of the National Planning Policy Framework. I also do not consider the Council behaved unreasonably in re-evaluating its position in the light of subsequent planning appeal decisions over the proposal having suitable access to services and facilities to meet day to day needs. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For the reasons given, I conclude that the application for costs should be refused.

Jonathan Price

INSPECTOR