



Costs Decision

Site visit made on 7 July 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2020

Costs application in relation to Appeal Ref: APP/N2739/W/20/3250729 Jubilee Cottage, 13 Main Street, Thorganby, Selby YO19 6DB

- 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 Chris Garland for a full award of costs against Selby District Council.
 - The appeal was against the refusal of planning permission for construction of 1 No. dwelling on land to the rear of Jubilee Cottage.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG sets out the type of behaviour that may give rise to a substantive award against a local planning authority (LPA) and includes situations where an LPA has prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Other examples include where an LPA has failed to produce evidence to substantiate each reason for refusal or where vague, generalised or inaccurate assertions about a proposal's impact are made which are unsupported by any objective analysis.
4. I acknowledge that there was a previous outline permission for a dwelling on the site. However, the material considerations were different at that time, most notably the Council's housing land supply position. The Council now has a sufficient housing land supply and the development plan can therefore be considered up to date. The suggestion that the Council has been inconsistent does not take into account the differing material considerations between the two planning applications.
5. Even though the original report to Planning Committee recommended approval of the application, the Planning Committee was entitled to reach alternative conclusions provided it did so based on material planning grounds. The reasons set out in the Council's decision notice are specific in terms of the areas of concern. It is clear that an assessment has been made against the locational criteria in the settlement hierarchy and that planning judgements have been

made in respect of the Conservation Area and living conditions. The relevant policies have been referred to in each case.

6. Whilst the specific harm to living conditions is not referenced in the Council's third reason for refusal, the Council's statement substantiates the specific harm relates to matters of outlook and privacy. Consequently, any ambiguity in the Council's third reason for refusal has been addressed and the appellant has not been disadvantaged insofar as they have responded to these specific matters in their initial grounds of appeal.
7. The appellant contends that, had they known the length of time the Council would take to make a decision, they would have submitted a reserved matters application. I am not aware of the full circumstances which led to the appellant submitting a full planning application. Had the appellant wanted the previous planning permission on the site to remain extant, it was incumbent on them to follow the appropriate process and submit a reserved matters application within the specified timescales. The appellant could also have appealed against non-determination had they been sufficiently concerned in respect of the time taken to determine the planning application.
8. To conclude, I find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

M Russell

INSPECTOR