



Costs Decision

Site visit made on 29 September 2020

by Mrs J A Vyse DipTP Dip PBM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

Costs application in relation to Appeal Ref: APP/D0515/W/20/3254507 Meadow Cottage, 4 Causeway Close, March PE15 9NZ

- 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 John Wallis for a full award of costs against Fenland District Council.
 - The appeal was against the refusal of planning permission for the erection of 1 dwelling.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons for the Decision

2. The Planning Practice Guidance advises that costs may only 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 associated appeal process. It sets out a number of examples, as reflected in the applicant's claim, where local planning authorities are at risk of an award of costs, including preventing or delaying development which should clearly be permitted having regard to the development plan, national policy and any other material planning considerations. They are also at risk if they fail to produce evidence to substantiate each reason for refusal, rely on vague, generalised or inaccurate assertions about the impact of a proposal which are unsupported by any objective analysis, or if they do not determine similar cases in a similar manner.
3. The decision to refuse on highways grounds did not follow the advice of the Highway Authority, a statutory consultee. Clearly, the Council was not bound to follow that advice. At appeal, however, it is required to produce relevant evidence to support its decision.
4. As acknowledged by the Highway Authority, and as recognised in my appeal decision, the geometry of Causeway Close and its junction with The Causeway are far from ideal. I also recognise that whether or not there would be undue risk requires an element of judgement. In this case, however, notwithstanding identified shortcomings, the Highway Authority confirmed that there had been no reported accidents within the vicinity of the access intersection with the Causeway, and that there was insufficient evidence to demonstrate that the existing arrangements were unsafe or that the traffic movements associated with one additional dwelling would result in unacceptable harm in terms of the safe operation of the access. For the reasons set out in my appeal decision, it confirmed that it had no highways objections, subject to parking and turning conditions.

5. In support of its case, the appellant provided evidence relating to traffic movements generated by dwellings, which database informed the Council's own Local Plan, to demonstrate anticipated vehicle movements. Even in the AM and PM peaks, the dwelling proposed would be expected to generate less than one additional two-way traffic movement. None of the figures relied on are challenged by any evidence produced by the Council. In fact the Council adduced no substantiated evidence to support its position, instead relying on assertion.
6. It has not been demonstrated to me that there was sufficient evidence, technical or otherwise, to justify and substantiate the Council's reason for refusal. In failing to do so, the Council's behaviour has been unreasonable, as described in the Practice Guidance, causing unnecessary and wasted expense in terms of the submission of the appeal and a full award of costs is justified

Costs Order

7. In the exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Fenland District Council shall pay Mr John Wallis, the costs of the appeal proceedings described in the heading of this decision.
8. The applicant is now invited to submit to Fenland District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Jennifer A Vyse
INSPECTOR