
Costs Decision

Site visit made on 18 August 2020

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2020

Costs application in relation to Appeal Ref: APP/E2530/W/20/3250439 Land off Ponton Road, Boothby Pagnell, Grantham NG33 4DH

- 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 P Robinson, V H Robinson and Son for a full award of costs against South Kesteven District Council.
 - The appeal was against the refusal of planning permission for the erection of 3 holiday lodges and associated access, change of use of agricultural land to ancillary garden area.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, 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.
3. The applicants' case is made on substantive grounds and relies on the fact that they engaged in pre-application discussions prior to submitting the application to the Council. The applicant proceeded with an application on the basis that these discussions were favourable. The applicant also considers that the subsequent application was refused for reasons that were not highlighted within the pre-application advice given and the discussions that were held.
4. Furthermore, the applicant considers that undue weight was given to the local opposition to the proposed scheme, despite the favourable pre-application advice.
5. The pre-application advice appears to have been given in 2018 initially, with follow up discussions in 2019. The Council point out that there was a change to their development plan in early 2020 with the adoption of the new South Kesteven Local Plan 2011 - 2036 against which the application was considered. As a result, this led to the refusal of the application.
6. Commonly, pre-application advice is made on the basis of the information provided to the Council and against the current adopted policies. I have been provided with copies of the pre-application submission¹ showing the level of

¹ Enclosure 3 of the Appellant's Planning Appeal Statement

detail presented to the Council at pre-application stage, as well as the subsequent correspondence.

7. I acknowledge that pre-application advice is given without prejudice and does not bind the Council to a favourable outcome when an application is submitted. However, in this instance it appears that during the pre-application process concerns were not raised regarding the location of the appeal site in relation to services and facilities, rather the impact on the character of the countryside through the siting and appearance of the lodges. Whilst I accept that there was a change in the Local Plan, and I have not been advised whether there was a signification change in such locational considerations, it appears that the Applicant's proceeded with an application in good faith, having sought to address the concerns raised by the Council. The application then appeared to be refused for other reasons not previously highlighted.
8. In relation to the level of local objection, it is not common for local residents to be consulted on a proposal at pre-application stage. I am not aware whether this is the case here. However, it is likely that the Council could not anticipate what local objection or support would come forward for the application once formally submitted. Nevertheless, from the level of information provided at pre-application stage, the Council would have been aware of the potential impacts of the development on the neighbouring residents at that stage.
9. I therefore conclude that, for the reasons set out above, the Council have acted unreasonably in refusing the proposal for reasons not sufficiently highlighted at the pre-application stage, despite the change in Local Plan.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

11. In 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 South Kesteven District Council shall pay to Mrs & Mrs P Robinson, V H Robinson and Son, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicants are now invited to submit to South Kesteven 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.

R Norman

INSPECTOR