



Costs Decision

Site visit made on 29 September 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2020

Costs application in relation to Appeal Ref: APP/V0510/W/20/3244324 Site between 117 and 119 Duchess Drive, Newmarket, Cambridgeshire CB8 9HB

- 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 East Cambridgeshire District Council for a full award of costs against Mr John Simmons.
 - The appeal was against the refusal of planning permission for the erection of single detached family home.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that parties in planning appeals normally meet their own expenses but 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 Council submits that they have determined an application for a dwelling on this site on three separate occasions, with the last application resulting in this appeal. This includes taking applications to Planning Committee. The Council set out that no meaningful changes were made to overcome the previous reasons for refusal, with the exception of an ecology report.
4. In dealing with these applications, and the appeal, the Council has stated that there has been a significant level of Officer time spent for which no fee is charged to cover the additional workload. The Council puts forward that the Appellant has continued to submit inappropriate applications which do not overcome the Council's reasons for refusal, which has resulted in wasted time and expense for the Council.
5. The Appellant has responded and considers that he has acted reasonably at all times in relation to both procedural matters and the merits of the appeal. This includes that the three decisions from the Council had different reasons for refusal and that the Appellant sought to address these before testing the Councils approach at appeal. It is also suggested that this is not a case that the Appellant had no reasonable prospect of the appeal succeeding.
6. The Appellant also notes that the Council has not referred to any guidance in their costs application and worryingly refers to work relating to the normal processing of applications and not additional work caused by the appeal. In

summary, the Appellant responds that the Councils application fails to provide evidence of unreasonable behaviour on the part of the Appellant.

7. Whilst I have some sympathy for the Council in the amount of officer time and associated cost that the processing of planning applications and appeals can take, in order to be awarded costs it must be demonstrated that the activity of the other party has been unreasonable.
8. In my view, much of what the Council has outlined relates to the normal processing of a planning application or an appeal. As such this normal activity as a result of the appeal cannot amount to unreasonable behaviour.
9. I also note that the Appellant has attempted to address the reasons for refusal on the previous applications prior to making an appeal, which is an approach advocated in the PPG.
10. Furthermore, as noted by the Appellant, at the time of the Councils decision it could not demonstrate a deliverable five-year supply of housing and the tilted balance was engaged. In my view, that alone means that the merits of the case needed to be balanced and it cannot be said that the appeal had no prospect of success.
11. Whilst in my decision I have concluded that the tilted balance no longer applies, and that I have dismissed the appeal on the harm which would result from the proposal, these reasons were matters of planning judgement which the Appellant was perfectly entitled to seek an independent view on.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Chris Forrett

INSPECTOR