



Costs Decision

Site visit made on 23 November 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2020

Costs application in relation to Appeal Ref: APP/N3020/W/20/3257421 10 Nottingham Road, Ravenshead NG15 9HH

- 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 Ken Merritt for a full award of costs against Gedling Borough Council.
 - The appeal was against the refusal of planning permission for a proposed ancillary dwelling to existing garden plot.
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Decision

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

Reasons

2. The application for an award of costs and the Council's response were submitted in writing and the content will be familiar to both parties. Consequently, I shall not repeat those submissions in full within this decision. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour or no wasted expense an award will not be justified.
3. The applicant seeks a full award of costs on the basis that the Council behaved unreasonably which has resulted in unnecessary and wasted expense in the appeal process. The delay in development has resulted in wider cost implications which include accommodation costs, inflation construction costs and commercial impacts arising from COVID-19 and Brexit. The applicant considers that the Council has delayed development which clearly should have been permitted and has not been consistent in determining similar applications.
4. In addition, the applicant contends that the Council did not work proactively with them. They were not advised that the scheme would be considered by the delegated members panel and were not given the opportunity to make any representation to the panel. The applicant considers that if the Council had cooperated then the misunderstanding concerning established case law, relating to infill development in the Green Belt, could have been ratified and thus avoided the appeal. Furthermore, matters relating to the trees and re-planting could have been resolved and dealt with by way of a planning condition.

5. The Council claims that they have worked proactively with the applicant through the pre application process. Additionally, in their view, amendments and/or conditions could not overcome fundamental objections. Therefore, there was no merit in negotiating and the application was determined in a timely manner. The Council consider the reasons for refusal to be legitimate and assert that they have not acted unreasonably or been inconsistent with their approach to decision making.
6. Based on the evidence submitted, it is clear that the Council considered that the planning application did not overcome fundamental concerns set out in their pre-application response. I am not convinced that additional dialogue would have been beneficial to the applicant and resulted in a different outcome.
7. The assessment of whether the development complied with local and national planning policy, requires an exercise of planning judgement. The Council's appeal statement acknowledged the court of appeal judgment. The officer's recommendation report and the reasons for refusal were clear and sufficient evidence was submitted to support the Council's policy stance, having regard to established case law.
8. As set out in my associated report, the other approved developments cannot be directly compared to the scheme before me. Consequently, I am satisfied that the Council has not been inconsistent in determining similar planning applications. The reasons for refusal were not unreasonable and the use of planning conditions could not make the development acceptable.
9. The applicant has not shown that the Council's refusal of planning permission was unreasonable. In the absence of any unreasonable behaviour there are no grounds for an award of costs and a full or partial award is unjustified.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

10. I have considered all the submitted evidence and the Appeal Planning Officer's report, for all the above reasons, I concur that this application should be refused.

Chris Preston

INSPECTOR