
Costs Decision

Hearing Held on 15 December 2020

Site visit made on 16 December 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2021

Costs application in relation to Appeal Ref: APP/G2815/W/20/3258402 Glebe Farm, Land located off Morehay Lane, King's Cliffe

- 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 Northants District Council for a full award of costs against M C and J Day.
 - The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for demolition of redundant farm building and proposed creation of agricultural worker's dwelling.
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Decision

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

The submissions for East Northamptonshire District Council

2. A written application for costs was made in advance of the Hearing. It is not necessary for me to repeat here the points made in that written submission.

The response by M C and J Day

3. A rebuttal to the Council's written costs application was submitted in writing in advance of the Hearing. It is not necessary for me to repeat here the points made in that written submission.

Reasons

4. Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
5. The planning appeal that is the subject of this application relates to a revised proposal¹ that is of identical description and similar makeup to its predecessor², which also progressed to appeal³. Indeed, the two schemes were considered as linked appeals at the Hearing.
6. As set out in the PPG, behaviour that may give rise to a substantive award against an appellant includes where the appeal in question follows a recent

¹ planning application reference 20/00762/FUL

² planning application reference 19/01613/FUL

³ APP/G2815/W/20/3254860

appeal decision in respect of the same, or a very similar, development on the same site. This is consistent with the premise that costs can only be awarded for unnecessary expense generated at appeal stage. The applicant's decision to submit similar planning applications could well have had time and resource implications for the Council at planning application stage, but this is of limited relevance here.

7. It is difficult to see how the scheme subject to this application would have generated unnecessary additional expense for the Council at appeal and it has not been clearly substantiated otherwise. Indeed, the proposal and its predecessor were tested at appeal in tandem, rather than one before the other. Furthermore, there were no clear or substantive differences between the relevant planning considerations in each case.
8. I also note that there would have been no mandatory requirement for the applicant to enter into pre-application discussions with the Council at any stage.
9. I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Thus, having had regard to all other matters raised, an award of costs is not justified.

Andrew Smith

INSPECTOR