



Costs Decision

Site visit made on 8 March 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Saturday, 08 May 2021

Costs application in relation to Appeal Ref: APP/D0515/W/20/3261915 Land adjacent to No 1 Otago Road, Whittlesey PE7 1YJ

- 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 Fenland District Council for a full award of costs against Mr Steve Fradley.
 - The appeal was against the refusal of planning permission for the erection of a chalet bungalow.
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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 (the PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers that the respondent acted unreasonably in the submission of the appeal, on substantive grounds that the appeal follows previous appeal decisions including a recent decision¹ in respect of a very similar development where an Inspector decided that the proposal was unacceptable and the circumstances have not materially changed in the intervening period.
4. The evidence before me indicates that the respondent was made fully aware of the concerns of the applicant and the previous appeal Inspectors. The significant concerns regarding the creation of tandem development and the subsequent erosion of the spacious and open character of the area and loss of a large plot were highlighted to the respondent with reference to local and national planning policy. Whilst I note that the applicant was co-operative with the respondent in terms of achieving a revised scheme of an amended design and parking layout, the applicant was clear that an application in this location would not be supported².
5. The development is clearly not in accordance with the development plan, and whilst some other material considerations are advanced, these are limited and do not indicate that a decision should have been made otherwise than in accordance with the development plan.

¹ APP/D0515/W/18/3212048

² Email dated 7 February 2020.

6. The PPG advises an appellant to give consideration to the merits of the case, and whether there are strong grounds to contest the reasons for refusal of planning permission before submitting an appeal. In this case, the respondent proceeded with the appeal scheme and as a result, the applicant has been put to the expense of defending their position when the appeal effectively had no chance of succeeding.
7. 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

8. 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 Mr Steve Fradley shall pay to Fenland District Council, 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.
9. The applicant is now invited to submit to Mr Steve Fradley, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching an agreement as to the amount.

E Brownless

INSPECTOR