
Costs Decision

Site visit made on 20 April 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2021

Costs application in relation to Appeal Ref: APP/B2002/W/20/3264854 Rear of 59 Cheapside, Waltham DN37 0HE

- 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 Herby Glover for a full award of costs against North East Lincolnshire Council.
 - The appeal was against the refusal of planning permission for the design of the proposed dwellings and all associated works.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises through paragraph 028 that 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. Costs may be awarded to any party regardless of the outcome of the appeal.
3. Paragraph 047 of the PPG provides a non-exhaustive list of examples of unreasonable behaviour by local planning authorities. This includes substantive and procedural matters, such as preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations or fails to provide evidence to substantiate the reasons for refusal.
4. I note the application was recommended for approval. However, a planning committee is not bound to accept the advice of its officers or technical consultees. I have been provided with the relevant committee meeting minutes and on my reading the views given clearly relate to whether the proposal would lead to increased flood risk as a result of damage to Buck Beck and increased surface water. This was supported by testimony from local people who have experienced flooding in the past.
5. Furthermore, the issue of flood risk as a concern was raised in a previous appeal¹ on the site which was dismissed on flood risk grounds. While the site has subsequently been the subject of a further appeal², which concluded the

¹ APP/B2002/W/18/3195839

² APP/B2002/W/20/3258040

drainage scheme was acceptable, this was determined after the planning committee had refused the proposal subject to this appeal.

6. These are all matters of planning judgement, and although as is clear from my decision I disagree with their position, from the information before me and in relation to the test of unreasonable behaviour, I do not therefore find that it was unreasonable for the planning committee members to refuse the application contrary to officer advice.
7. Although the drainage issue was not raised within the granting of permission of an outline application, this could be reasonably addressed in a reserved matters application as aspects such as the site layout and landscaping could impact upon the surface water discharge rates, for example.
8. Consequently, there was a fundamental disagreement between the parties in this case which could have only been resolved by way of an appeal. As such unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs is not justified.

Conclusion

9. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, I determine that the costs application should fail, and no award is made

C McDonagh

INSPECTOR