
Costs Decision

Inquiry Held on 20 – 23 October 2020

Unaccompanied site visits made on 6 and 26 October 2020

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 June 2021

Costs application in relation to Appeal Ref: APP/Y2620/W/20/3248468 Land off Beresford Road, Holt

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Gladman Developments Ltd for a partial award of costs against North Norfolk District Council.
 - The inquiry was in connection with an appeal against the refusal of the Council to grant outline planning permission for the erection of up to 110 dwellings with associated infrastructure to service 2 hectares of land potentially for a new Two Form Entry (2FE) primary school, public open space, landscaping and sustainable drainage system (SuDS) with main vehicular access point from Beresford Road and secondary pedestrian, cycle and emergency access from Lodge Close. All matters reserved except for means of access.
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Decision

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

The submissions for Gladman Developments Ltd

2. The costs application was made in writing during the Inquiry. It relates only to the costs incurred by the Appellant since 4 August 2020, on both procedural and substantive grounds.

The response by North Norfolk District Council

3. The Council's response was made in writing following the close of the Inquiry.

Reasons

4. The Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, 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. The PPG states that awards against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. The Appellant has put forward grounds in their costs application that cover both procedural and substantive elements.
5. The Appellant considers that once it was confirmed that full funding had been secured for the primary school the Council should not have continued to defend the appeal and it should have reverted to written representations thus saving

inquiry time, avoiding the need to call witnesses and engage Counsel, preparation costs and the production of proofs of evidence. The Appellant considers that, during the Inquiry, it became apparent that Councillors made the decision to continue to pursue the appeal due to considerations and issues related to matters other than those contained within the reason for refusal, including highways impacts.

6. I have been provided with a chronology of events as well as series of emails submitted by both parties showing the progress of discussions from June to September 2020. It appears to me that the Council had contact with the County Council (NCC) the day after NCC approved the funding for the school. Following this, the Council have provided a clear timeline of the discussions that took place, including reasonable justifications for the queries raised by the Council and the time that elapsed. I also note that the Council and Appellant had discussions over how to progress the appeal. None of the evidence before me appears to suggest that procedurally the Council acted in an unreasonable way.
7. The reason for refusal related to the Council's view that the material considerations advanced in favour of the proposal would not outweigh the conflict with the Development Plan. I reached my decision on balance, even though the proposal would be contrary to the development plan therefore the benefits needed to be explored. Furthermore, the Appellant wanted to present its evidence on housing land supply relating to the use of the standard method and the public benefits, including the school, affordable housing, provision of market housing, economic benefits and the provision of green infrastructure. In relation to the decision to pursue the appeal on matters other than those related to the main reason for refusal, it was made clear to me that the Council Officers raised no particular issues with these other matters and, given that I find that the Council were not at fault for continuing to defend the appeal, I conclude that this element made little difference to this decision. In any event, an Inquiry allows for members of the public to put forward their concerns in addition to the main identified issues which needed to be considered and the Appellant therefore needed to engage with these matters, meaning that the Inquiry was not unnecessary. It was also my decision to continue with the Inquiry procedure.
8. The evidence put forward by the Council in defending the appeal gave clear reasons for the refusal and I do not find that, in continuing to defend the appeal, the Council were substantively unreasonable in this instance.
9. Based on my above assessment, I find that it has not been demonstrated that the Council acted unreasonably causing unnecessary or wasted expense in the appeal process. Accordingly, a partial award of costs is not justified in this case.

R Norman

INSPECTOR