



Costs Decision

Site visit made on 27 July 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2021

Costs application in relation to Appeal Ref: APP/N3020/W/21/3268087 Land to the Rear of 14 Main Street, Linby, Nottingham NG15 8AE

- 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 Chris Chambers against the decision of Gedling Borough Council.
 - The appeal was against the refusal of planning permission for Alterations and Extensions to Detached Garage to Form a New Dwelling.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, the National Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
3. In summary, the applicant considers the Council prevented or delayed development which should have been permitted, having regard to its accordance with the development plan, national policy and other material considerations; objected to a scheme based on a failure to recognise what development plan policy was found to be determinative by an Inspector in a previous appeal, and failed to have regard to the advice of its Planning Policy Team, thereby not determining similar cases in a consistent manner and also giving consideration to an irrelevant factor.
4. Paragraph 8 of the applicant's costs application suggests that the Council wrongly considered the proposal against Policy LPD 13 of the Local Planning Document: Part 2 Local Plan 2018, (LP Part 2). Taking account of all the evidence submitted in both the appeal and costs applications, I assume the applicant is referring to Policy LPD 12 regarding this matter, and not LPD 13. I have therefore made my decision on this basis.
5. Notwithstanding my conclusion to allow the appeal, the issue is whether the Council behaved unreasonably in refusing planning permission for the proposal. I acknowledge that the Inspector in appeal Ref APP/N3020/W/20/3252611 considered the most appropriate exception in the 2019 National Planning Policy Framework (the Framework) to be that outlined in paragraph 145 'c'. In

assessing the proposal against 145 'c' of the Framework the Inspector logically therefore assessed it against Policy LPD 13 of LP Part 2.

6. As noted in my appeal decision, in my opinion, the Inspector's reference to paragraph 146 'd' of the 2019 Framework was made in response to the contention made by parties. Nevertheless, the Inspector does not rule out the possibility that the proposal *could* be assessed against paragraph 146 'd' of the 2019 Framework and therefore Policy LPD 12 of LP Part 2. Indeed, the Inspector concludes that the proposal would not accord with Policy LPD 12 of LP Part 2 "if" it was assessed against paragraph 146 'd' of the Framework. I therefore appreciate what I consider to be the Council's interpretation of appeal decision Ref APP/N3020/W/20/3252611 in concluding that the Inspector did assess the proposal against Policy LPD 12 of LP Part 2. As such, although the applicant is of the opinion that the Council considered the proposal in an obtuse manner, bearing in mind the Council's interpretation of the previous appeal decision, I consider it was therefore reasonable for the Council to assess the current proposal against Policy LPD 12.
7. Regarding the consultation response provided by the Council's Planning Policy Team, such comments are advisory, and the decision-taker is entitled to make their own judgement.
8. Although I reached a different conclusion to the Council in the appeal decision, bearing in mind the matters discussed above, I therefore consider that the Council did not behave unreasonably in refusing planning application Ref 2020/1147.
9. I therefore conclude that it has not been demonstrated that the Council behaved unreasonably in respect of any substantive or procedural matters associated with the determination of application Ref 2020/1147. Consequently, there has not been any unreasonable behaviour which caused the applicant to incur unnecessary or wasted expense in the appeal process, as described in the PPG. Therefore, an award of costs is not justified.

J Williamson

INSPECTOR